

IN THE CRIMINAL SITTINGS OF THE SUPREME COURT HELD AT NUMBER 7 COURT, SALAMANCA PLACE, HOBART, BEFORE HIS HONOUR THE CHIEF JUSTICE, ON TUESDAY THE 19TH DAY OF NOVEMBER, 1996

THE QUEEN v. MARTIN BRYANT

<u>Appearances:</u>	MR. D. BUGG Q.C. and MR. N. PERKS	for the Crown
	MR. J. AVERY	for the Accused

MR. BUGG Q.C. (Stating facts): Your Honour, Martin Bryant has pleaded guilty to all counts in the indictment which was filed in this Court on the 5th of July.

On the 28th of April of this year he travelled to Port Arthur. He drove there in his Volvo sedan which at the time had a surfboard placed on the roof racks on top of the car. The Crown's case is that at the outset of that journey he intended at least some form of violent confrontation with Mr. And Mrs. Martin of the Seascope tourist accommodation facility at Port Arthur and in all probability his intentions also extended to actions which had the devastating impact on the community and the people of Port Arthur on that day.

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I say this because on the Crown case he had made preparations which were inconsistent with his normal behaviour. He behaved deceptively to those close to him, as to his possession and use of firearms. They were concealed in his house in the body of two pianos and elsewhere within the house out of view of visitors to that property. Yet, when he left the property on the morning of the 28th of April to travel to Port Arthur he left one semi-automatic firearm and a substantial quantity of ammunition in the hallway of the house.

His acts of preparation included buying a sports bag to conceal one of his weapons, he took handcuffs with him, rope and a hunting knife and three semi-automatic weapons and a significant quantity of ammunition. He told some people he met on the way that he was going surfing at Roaring Beach but on one occasion he let his guard slip and I will tell your Honour about that later. He followed through a series of actions which culminated in a hostage and siege situation which had an air of pre-planning. He clearly intended to embark upon violence and murderous conduct of the type to which he has pleaded guilty.

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Bryant at the time, lived comfortably in the sense that he didn't have any money worries but I will cover that in more detail later. His lifestyle was different and his behaviour, in the eyes of many, inappropriate.

He owned and drove a motor vehicle but did not possess a driver's licence. He owned and on the 28th April 1996, used military style semi-automatic weapons but did not hold a licence or any form of authorisation to possess or own those weapons. A search of his house at Clare street after the shootings at Port Arthur revealed that he had hidden the firearms in the house and had other weapons and ammunition concealed there in such a way that his girlfriend and other visitors would not be able to locate them. He was obviously stockpiling those weapons and ammunition which had a disturbing killing efficiency. That he was planning or considering a significant violent act or series of acts culminating in his conduct in late April 1996 is best illustrated by his conduct at gun shops in Hobart in the short period of time leading up to this incident –

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He had, in October or November of 1993, purchased an AR10, also called an Armalite, semi-automatic rifle through a newspaper advertisement in Tasmania. In early 1996 he enquired at one gun shop about the purchase of a semi-automatic .233 rifle and at the same time he bought three rifle cases, one of them with a double carrying capacity. In February to April of 1996, from another gun shop he purchased cleaning kits for a 30 calibre and a 12 gauge shotgun. At about this time it is believed that he bought that semi-automatic shotgun. He later was to tell police that that weapon, when firing, frightened him. On the 27th of March, 1996 he bought the AR10 rifle into a

gun shop for repair. At about 10.00 a.m. on the 23rd of April, 1996 he enquired at one gun shop in Hobart as to the availability of an AR15 semi-automatic weapon.

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– told that such a weapon was available for a price of three thousand dollars however he did not buy the weapon at that shop although one of the guns he used on the 28th April, 1996 was an AR15 which he had purchased elsewhere and he provided details of that to the police and your Honour will hear about that later.

All these transactions and movements he concealed from his girlfriend, Miss Petra Wilmot.

In stating the facts to you I will cover those events leading up to the first fatal shootings on the 28th of April and through to the shooting of Mrs. Mikac and her two daughters on Jetty Road at Port Arthur.

My junior, Mr. Perks, will then deal with Bryant's actions from the Toll Booth at Port Arthur through to the siege and his arrest at Seascapes the next morning. He will also cover the police interview of Bryant in early July, 1996, the video film of which will be played to the Court. At the conclusion of the playing of that film I will then provide your Honour with Victim Impact details and background information on Bryant detailing information in my possession and expert opinion obtained by my office which I will be submitting to assist your Honour in the sentencing process.

Before proceeding further and in fairness to Bryant and his counsel I consider that it is proper that I inform your Honour as to the Crown's position concerning sentence.

The Crown in this State is authorised to make submission on sentencing pursuant to Section 386, sub-Sections 11 and 12 on the Criminal Code and I propose to follow that authorisation, particularly under Section 386, sub-Section 12B and C –

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--- in this case and make submissions in due course to your Honour about the matter. I will, because of the substantial number of murders committed by this man, be submitting that in relation to the counts of murder to which he has pleaded guilty the sentence of life imprisonment is the only appropriate sentence on those convictions and that your Honour's discretion under The Parole Act should be exercised by orders under Section 12B (a) that he is not eligible for parole in respect of that sentence. I will address your Honour in more detail on this in due course but I do make those comments to put the defence on notice as to my position on that.

On the 28th of April, Martin Bryant, who was born on the 7th May 1967, had been living at 30 Claire Street, New Town, for a number of years having obtained ownership of that property on the death of its previous owner, Miss Helen Harvey. On her death on the 20th October 1992, Bryant inherited her estate which included a share in the profits of the estate of the late George Adams, the founder of the Tattersall's lotteries and he also of course acquired a sole interest in the house in Clare street. Insofar that this is relevant, further comment will be made about this aspect of Bryant's life later.

In early 1996, Bryant advertised in "The Mercury" newspaper for a gardener's position at his home in Clare street. That advertisement was answered by, amongst others, Miss Petra Wilmott. She was employed. After a short time of being employed by Bryant, Miss Wilmott became friendly with him, ceased working for him and then started to go out with him on a regular basis and often stayed overnight at his house. She stayed at his house for four successive nights up to and including the 27th April 1996,

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the night before Bryant committed these crimes.

On the 15th of April, 1996 Miss Wilmott accompanied Bryant in to Hobart to go shopping, less than two weeks before this incident. She was in the Myer store in Hobart with Bryant when he purchased a Prince sports bag, having first measured that bag with a tape measure he had taken with him. It's the crown case that he was obviously measuring that bag to determine whether or not it had the capacity to carry the semi-automatic weapon he carried in that bag with him when he entered the Broad arrow Café on the 28th of April. He turned to Miss Wilmott

and said was the bag big enough and when she asked him what for he told her that he was going to use it for T'ai Chi. However, in an aside conversation with the shop assistant he told the shop assistant that the bag had to have strong handles as it would be used to carry ammunition which would be heavy. This bag was later to provide Bryant with an element of surprise and as an illustration of his pre-planning for what he did on the 28th of April.

Miss Wilmott states that after seeing that bag at the time of purchase she did not on any other occasion see it either at Bryant's home or in his possession. It was most likely hidden with his firearms and ammunition.

On the 25th of April, Anzac Day, Bryant travelled to Richmond with Miss Wilmott ostensibly to test out his camera for which he had purchased new batteries. At Richmond Bryant spoke to one shopkeeper and asked her how busy it was in Richmond on Sundays.

On Saturday, the 27th of April Bryant spent the day in the company of Miss Wilmott and in the evening had dinner at his mother's home with Miss Wilmott. On this occasion Miss Wilmott said that Bryant appeared

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to consume more alcohol than his usual practice, he became talkative and aggressive in a make believe way towards his mother.

After leaving his mother's home they travelled to a local nightclub and then returned to the Clare Street property where Bryant set his alarm clock for 6 a.m. the following day.

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Miss Wilmott said to Police when later interviewed by them that this was out of keeping in the sense that in the time she had known Bryant he had never used an alarm clock nor had he risen that early before. He did not work and he had no commitments. She had never seen any firearms either in the home or in Bryant's possession in the time she had known him. She left the home at about eight a.m. and whilst Bryant had said that he wanted to take Miss Wilmott to Port Arthur she had never been there with him. He didn't tell where he was going that day and she was certainly unaware of him ever having been surfing in the time she had known him, although he did tell her that he was a good surfer. Information gathered by the Police after this incident seemed to indicate the contrary was the case. Miss Wilmott later assisted the Police in identifying Bryant's voice from the audio tape recordings of the hostage negotiations, which occurred later in the evening of the 28th of April.

At the time Bryant was the registered owner of a yellow Volvo 240GL sedan which he had purchased in September, 1995. He also had at the Clare Street property a blue Honda Civic station wagon which was out of registration. The only other registered owner of that vehicle had been Miss Harvey. The vehicle had passed to Bryant on her death. Bryant had never held a driver's licence and had one conviction against his name for being an unlicensed driver of an uninsured, unregistered motor vehicle following his interception by Transport Department Officers on the 6th of July 1994. The car he was driving was the Honda Civic which had remained unregistered after the death of Miss Harvey.

Miss Wilmott in statements provided to the Police after the 28th of April said that Bryant would often speak about Japanese tourists and wasps, and in fact raised both topics with the woman he spoke to in Richmond on Anzac Day.

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Bryant's home in Clare Street is fitted with an electronic alarm system. In attending, the police late in the day of the 28th of April, the Police in attending those premises the Police discovered that the alarm had been set, that is engaged, at nine forty-seven a.m. on Sunday the 28th of April. So obviously that was the time at which Bryant left his home. He left driving his yellow Volvo sedan and carrying with him at that time the AR15 semi-automatic .223 calibre rifle and FN, commonly called an SLR military style semi-automatic .308 calibre rifle and a semi-automatic Daiwoo twelve gauge shotgun.

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He also had with him two sets of handcuffs, sash-cord rope and a hunting knife and a number of containers of petrol.

The times that I will give your Honour now are approximate because they are estimates given by witnesses who came forward to assist the police with their inquiries following the horrific events of the 28th of April.

At approximately 10.30 a.m. Bryant arrived at the Midway Point Newsagency and purchased a cigarette lighter from the proprietor, Mr Angelo Kessarios. The owner recognised Bryant because he used to call in at the newsagency on a regular basis approximately 18 months previously. The usual time of his arrival was 6.00 a.m. The proprietor said that he had had, at that time the assumption that Bryant had an early work commitment to be arriving at his shop at such an early hour of the day. But, in fact, Bryant's real reason for doing so was that he was living in the Copping District, he did not have a driver's licence and he therefore drove at a time, at that time in an attempt to avoid police detection. When he had been in the shop on previous occasions he would giggle inappropriately but was always outgoing in his manner. But on this occasion the proprietor noticed that his demeanour was quite different. He didn't pass any pleasantries. He didn't show any recognition of the proprietor, although they had obviously exchanged conversation on a number of occasions, and he purchased the cigarette lighter leaving more money than was necessary to pay for it and departed quite abruptly.

Bryant then travelled to the township of Sorell where he stopped at the local supermarket and purchased a bottle of tomato sauce. The proprietor of the supermarket, Mr. Diamantis, noticed that he had with him a large bag which was a sports type bag. He therefore watched his movements in the supermarket closely.

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When he left he paid for his purchase with a large quantity of small coin, small denomination coin.

Your Honour, the list of witnesses names has been provided to the transcribing typist so there is no problem with spelling.

Bryant then travelled further south to the village of Forcett, arriving there between 11.00. and twelve midday. He stopped at the Shell service station and spoke to the proprietor, Mr Gary King, and requested a cup of coffee. He told the proprietor that he had been there earlier in the week and had enjoyed the cup of coffee he had on that occasion, but he said, 'On this occasion would you boil the kettle for less time.'. He paid for the coffee in five and ten cent coins and told Mr King that he was going to Roaring Beach to surf. The service station proprietor thought that was strange because it was a very calm day and he certainly didn't expect that the sea conditions would be conducive to surfing.

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Your Honour, there were a number of other sightings of Bryant, the car was distinctive, and those sightings occurred in the Eaglehawk Neck area and at some of the tourist attractions near Eaglehawk Neck. Clearly he moved on from Forcett through Eaglehawk Neck and then down to the Peninsula at Taranna and there he stopped at the service station-convict bakery and purchased fifteen dollars worth of petrol. From there he drove on to Port Arthur.

Mr. Christopher Hammond, a long time resident of the Peninsula and proprietor of the service station said that when he served Bryant the petrol he stood looking out across Norfolk Bay with Bryant and he said the water was mirror calm and he was rather surprised to see someone with a surfboard travelling down there in those weather conditions.

Clearly Bryant travelled on from there towards Port Arthur and the Crown case is that he stopped at the Seascape guest accommodation at that time owned by Mr. And Mrs. David Martin.

There were two interesting observations made late in the morning and at about midday by two people who reside in the area, one Mr. Simmons, heard at about 11 a.m. two shots. He knew the Martins well and he knew on that day that it was Mr martin's birthday. Further down towards Port Arthur and near the boat ramp a Mr Doug McCutcheon heard a series of rapidly fired shots and his best estimate of the time of that was about twelve o'clock to twelve thirty. He estimated that the calibre of the rifle used was larger than .22. He has some experience with firearms and some sensitivity about it, being involved in the operation of a fish farm. He claimed that whenever gun shots went off in the district he was blamed for shooting

seals. But he estimated that in that volley of shots there would have been six, at the most twelve shots. Later in the day he heard further shooting when Bryant was in Port Arthur. In that late morning how many shots were fired and precisely when is difficult to determine but these two residents heard shooting on that day in the pre-lunch period and the Crown case is that Bryant shot Mr. And Mrs. Martin at about that time.

Further details will be given by Mr. Perks.

Tourists to Tasmania at the time, Donald and Stephanie Gunn, had spent the night at "The Seascap". They departed at about 11.15 to 11.20 a.m. and at that time David and Sally Martin were in residence, all the other guests had departed, the Gunns stayed chatting to Mr. & Mrs. Martin and then later when they departed they noted that both of the Martins were engaged in chores about "The Seascap", so at about 11.20 a.m. the Crown case is that Mr. & Mrs. Martin were at the premises on their own. At about 11.45 a.m. a Peninsula resident, Mr Copping, drove past "Seascap" on the Arthur Highway. He had known the martins for a number of years, and when he looked towards "The Seascap" building he observed a yellow Volvo sedan backed up into the front door of the main home with the driver's door open. There was a surfboard on the rack and he took particular notice of this because being a person who had surfed in the area some many years before he knew that the weather was not good for surfing and he recalled that when he spoke to the police because he said he thought to himself at the time that a lot of surfers had improved somewhat since his day of surfing if they could afford to stay overnight when the weather was like that. He drove through past Port Arthur township and then returned at about 12.40 p.m., in other words he was driving back towards "The Seascap", and as he did so he noticed the yellow Volvo being driven towards Port Arthur about two hundred metres south of the general store at Port Arthur itself.

The Crown case is that in that intervening time, that is, between 11.45 and 12.40, Martin Bryant shot and killed Mr. & Mrs. Martin, and I say this because not only were shots heard by the residents I have mentioned but on the same day Victorian tourists, Maureen and John Mason, who had visited Port Arthur and were returning to catch

a flight from Hobart, called in to look at "The Seascap" premises on their way out of the Peninsula at about 12.30 p.m.

So noticed the property on the way into Port Arthur and they were attracted by it and thought that they might come back and visit the premises on a future holiday.

On later hearing of the events at Port Arthur Mrs. Mason was to describe to the Police what occurred when she and her husband drove onto the Seascap property. She said that her husband stopped the car, they both alighted from the vehicle and started to walk towards the house. She has a vague recall of a squarish shaped vehicle near the house but didn't take any particular note of it. She then told the police "Suddenly a young man appeared in front of us out of nowhere, he appeared agitated, he was making jerking movements with his hands and wasn't still, moving about nervously. My husband said to him 'I wonder if we could have a look at one of the apartments?' and he said 'No, my mother and father are out for ten minutes' He said, 'I can't show you around because I've got my girlfriend inside'" Mrs. Mason described his manner of speech as strange and "I opined that he was speaking as if something was wrong". She said his manner of speech was not natural and she said that he appeared quite rude and she became uneasy about him. She told the Police that at this time all she wanted to do was just get away from the property as quickly as possible and she asked her husband to do so by saying "Come on let's get out of here". Both Mr. and Mrs. Mason then re-entered the car, drove away from the property, back along the Highway. Mrs. Mason looked back over her shoulder as the car travelled onto the Highway and she said that the person she had spoken to was standing in front of the house looking in their direction. Their time of departure was about twelve thirty-five p.m.

Shortly after this your Honour Bryant left the Seascap and drove towards Port Arthur in his Volvo. He had

with him at the time the keys to the Seascope properties which had obviously been locked following his killing of Mr. and Mrs. Martin. These keys were later recovered from the Volvo sedan when he abandoned it near the Toll Booth.

On his way to Port Arthur he stopped to speak with two persons whose motor vehicle had over-heated and was stationary on the roadside. That was just past the Seascope property. Bryant chatted to them briefly and was asked if he was going surfing because of the surf board on the roof racks.

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He replied, "No, I'm going to the Isle of the Dead to get rid of some wasps". He then suggested that they meet later at the café at Port Arthur when he said, "You can shout me a cup of coffee." From there Bryant travelled past Port Arthur, or through Port Arthur, and past the historic site, to Palmer's Lookout Road. That's on the southern side of the historic site. And there he stopped his car and spoke with a long term resident, Mr. Roger Larner, whom he had known for a number of years. Bryant's parents had owned a seaside holiday property and approximately fifteen years previously Mr. Larner had met Mr. and Mrs. Bryant and their son Martin.

Your Honour, it's important that I read to you the account given by Mr. Larner of his conversation with Martin Bryant because on the Crown case this conversation took place approximately one half of an hour after he had murdered Mr. and Mrs. Martin. He asked Mr. Larner how his health was – I am referring to page 43 of volume 1, part A of the crown papers, your Honour. Mr. Larner replied that it was good. He asked after Martin Bryant's health and he said, "I don't drink much anymore and I don't smoke. I'm down here surfing." Mr. Larner then asked where he was living and Bryant said that he had bought a place just out of New Norfolk, called 'Fogg Lodge'. He said that he had sold his farm at Copping for about a hundred and forty five thousand dollars and said that he was looking for some Murray Grey cattle to buy. Mr Larner responded that he had some to sell and asked him what he was looking for and Bryant said, "A couple of heifers and a young bull." Mr. Larner said that he had a heifer for sale and indicated where they were in the paddock. Bryant then said he didn't want to look at them right away. He said to Mr Larner, "I wouldn't mind buying Martin's place." That is Mr David and Mrs Sally Martin. And that reference Mr Larner took to be the next door property because Mr. and Mrs. Martin also owned property further

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down the peninsula, next door to Mr. Larner.

He then asked Mr. Larner if his wife was at home and Mr. Larner said, "Yes, she's up at the house." And he then asked if it was all right if he could go up to the house to see her and Mr. Larner responded, "Yes, that would be all right and I will come up."

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Bryant then responded that he might go to Nubeena first and then come back later in the afternoon if that was all right. The background to that, your Honour, is that some time previously, and after the death of Martin Bryant's father, Bryant had met Mrs. Larner accidentally at New Town and after that meeting he had made a nuisance of himself and rung Mrs. Larner on a number of occasions and those phone calls Mr. Larner described in a term which could commonly be called nuisance calls. As a consequence he asked his wife to report the matter to the police, which she had done. Certainly with what had already transpired and with what later transpired Bryant's refusal of the invitation to travel up the path to the home in company with Mr. Larner we say is somewhat significant. He certainly showed composure in behaving in the way in which he did, not only in the presence of Mr. Larner but also with the people to whom he spoke on the roadside when clearly at that particular time he intended, on the Crown case, to embark upon his murderous and violent conduct at Port Arthur.

Bryant then travelled back from Palmer's Lookout Road to the entrance to the historic site. His vehicle was observed entering the site by tourists following him and he was also seen by a member of the historic site staff operating the toll booth on that day. That person estimates that at approximately 1.10 to 1.15 p.m. she observed a yellow Volvo sedan in a line of vehicles waiting to enter the site. She noticed the surfboard on the roof racks and she noticed the sudden backwards movement in the vehicle whilst it was in the queue. When the vehicle arrived at the toll booth window Bryant complained that the driver in front of him had reversed without warning towards him.

This witness made a full statement to police not only of Bryant's entry to the site but also of later events which occurred near the toll booth and they will be covered in detail by Mr. Perks later in this hearing.

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Your Honour, Bryant then drove down Jetty Road towards the carpark near the broad Arrow café, and in due course we will make available some plans of the area so that a geographic orientation can be achieved but I won't do that at the moment.

At about 1.25 p.m. the security manager at the site, Mr. Ian Kingston, was directing people in the carpark when he saw Bryant, who indicated that he wanted to park his vehicle near the water's edge. Mr Kingston directed him away from that area because it is normally reserved for campervans and the carpark area was quite busy on that day. Bryant became argumentative but drove off in his car and parked it near the information centre. Mr Kingston attended other matters and then later noticed that Bryant had moved his car back to the water's edge. He saw Bryant alight from the car carrying a bag, a sport's type bag, a video camera, and he then walked towards the Broad arrow café. It is the Crown's case that that bag that he then had with him contained the AR15 semi-automatic rifle and ammunition and it was the bag which he had previously measured, which I've referred to. At this stage, Mr Kingston didn't take any further notice of Bryant.

During the mid-lunch time busy period at the Broad Arrow café on the 28th April, there were at least sixty customers either seated within the Broad Arrow café or waiting to be served for takeaway meals which could be eaten away from the café at outside eating areas in front of the café and others were browsing in the souvenir and giftshop area. Bryant entered the Broad Arrow café at about 1.30 p.m. He stood at the servery and obtained food and drink, a fact which was noticed by one of the witnesses consisting of a cup of fruit juice and also a can of fruit juice. He left the café to take a seat outside and as he left the door was held open for him at his request by Mrs. Carol Pearce and Mrs. Carmel Edwards members of a party of ten who were just entering the

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café. Comments were made to Bryant about the size of his meal which he was taking out with him and he responded saying that he had been surfing all day. He walked on to the balcony and seated himself at one of the tables –

and, your Honour, I would ask, I say so in this amount of detail because there are two other rooms at court and there are people assisting me in those rooms who will place on the screen plans of the area, and I would ask Mr. Perks if he wouldn't mind helping as well, to place firstly the floor plan of the broad Arrow café on the board.

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I'll spend some time referring to this your Honour because obviously I need to go through this in some detail and I'd ask that Mr. Perks stay there and perhaps assist the Court by indicating certain locations. By way of explanation your Honour I should say that the plan has been prepared by the Police to assist. It is a floor plan of the café after Police investigators were called to examine the scene and record what they observed. What has been done to the plan in addition is to make faint red outlines of the Locations of the tables in the arrangement which existed at the time and was the place at which the tables were located on the afternoon to Bryant entering the café with his firearm. So the plan also depicts the location of bodies left in the café after Bryant's departure and their location at the time the Police attended, so clearly there has been probably some movement of the bodies for medical attention and examination.

But when Bryant left the café he left by the doorway which took him out onto the balcony and then seated himself at a table, on the edge of the second last table before the gap on the balcony. When he sat down at that table he commented in a rather loud voice that there were a lot of wasps about. One person who was dining on the balcony at that time, Mrs. Sullivan, said that she hadn't seen any and made a comment to that effect to Bryant.

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Bryant then spoke to people at or near the table he had seated himself at and he questioned them about parking problems. Did they have any difficulty, and so on, and stated that he had had problems but that he had parked where he wanted to anyway. Seated at the table next to him was a Melbourne couple, Michael Beekman and Rebecca McKenna. And, your Honour, I will be taking you through some photographs and I tender a bundle of photographs for your assistance.

HIS HONOUR: Thank you.

MR BUGG QC (RESUMING) If your Honour turns towards the back of that folder of photographs there is Photograph 1,039 – that shows part of the balcony, obviously after this incident, and the area which we are now talking about. That's one zero three nine. Mr. Beekman and Miss McKenna said that Bryant appeared to be talking to himself. He mentioned 'wasps' and spoke to Miss McKenna. He also said that there were not many Japanese tourists at the site that day. The couple tried to ignore him. Mr Beekman noted that he was eating his food quickly, they observed him gather up his bag, tray and other possessions and go back into the café. Mr. Beekman said that someone opened the door for him again.

There are two entrance doors – one off the balcony into the café to the left of – if you could just show that, please? There is that entrance doorway and there is another entrance doorway there. That last entrance doorway, the one on the right, is the one through which Bryant walked when he went back into the café.

HIS HONOUR: That's immediately below the sign, "The broad Arrow Café", is it, on the photograph?
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MR BUGG QC: I'm sorry, your Honour.

HIS HONOUR: If you look at the photograph?

MR BUGG QC: Yes, you're looking at that. You can see the doorway from the photograph in 1039.

HIS HONOUR: Yes.

MR BUGG QC: It's the doorway you can see just to the right of the person walking along in front of the balcony.

HIS HONOUR: That door has opened out in that photograph, has it?

MR BUGG QC: Yes.

HIS HONOUR: Yes.

MR BUGG QC: (RESUMING) Someone opened the door for him again and Mr Beekman said that he himself saw wasps there when Mr Bryant was mentioning wasps but he said that Bryant's speech was a little difficult to understand but he certainly articulated the problem that he'd recently experienced with Mr Kingston over parking because he said, 'Fuck him. I parked there anyway.' He was described as appearing to be anxious with quick hand movements and looking at the carpark and into the café quite regularly.

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Another couple, Mr. and Mrs. Williams, on a coach tour, also sat outside. He spoke to them in similar terms. They later went on to their coach, a coach which Bryant was later to shoot at. Mrs. Iris Williams when the shooting had finished, noted the registration number of Bryant's vehicle as he was driving out of the car park.

Another couple, Mr. and Mrs. Kelly, entered the café shortly after Bryant. They had been at the outdoor tables and had entered to leave their cups and look for souvenirs.

Bryant then walked in to the dining area of the café and placed his bag on a table in the north-western corner of the café. That's being indicated on the plan now, so he's walked through a good two thirds of the café area towards the north-western corner. The table that he placed the sports bag on was not occupied and he immediately took out the AR15 rifle which was fitted with a thirty shot magazine, although the Crown case is that there were approximately twenty six live rounds of ammunition in the magazine at that time.

Your Honour, the bag was left by Bryant in the café after he departed and I would tender that, along with a towel which was found to be in it. There was also some clothing but I won't tender that, your Honour, the Crown places no relevance on that. There was a towel, a hunting knife – sash cord rope in two lengths. While they are being tendered, your Honour, I will just say that subsequent DNA analysis of the hunting knife and deposits that were observed on it disclosed that there was blood on the knife of a DNA type matching Mr. David Martin. A very refined test undertaken, the results of which only came to my office on Friday, has disclosed that there was also a DNA sample which was unable to be

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identified initially but it has now been identified as being consistent with that of Martin Bryant, but obviously from his plea there is no dispute about that now.

EXHIBIT P2 – BAG AND CONTENTS OF A ROPE, - TAKEN IN
KNIFE and JUMPER

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Your Honour, on the plan there has been marked faintly in red table numbers to indicate table numbers and their location in the restaurant on that day. Seated at table number two were four visitors to Port Arthur Mr. Michael Sargent, his girlfriend Kate Scott, Mr. John Riviere and Miss Carol Villiers. Mr. Sargent stated that he had been seated at the table for about ten minutes when he noticed that an Asian couple were seated at a single table near the western side of the building. That's now being indicated. They were eating a meal and Mr. Sargent noticed Bryant near the table with a large sports bag and he was staring at them. Mr Sargent returned the stare briefly and then he turned to the other members of his group and continued the conversation he was having with them. Mr. Sargent then heard two shots in quick succession. He looked up and saw Bryant holding a gun in a position indicating that he had just fired it at the Asian couple and was turning the gun on him. He started to move forwards and downwards and the gun was fired in his direction the bullet striking the top of his head as he fell to the floor. Shortly after and whilst on the floor he realised that Miss Scott, his companion had also fallen to the floor. His first thought was that she was alive and that she had escaped serious injury but then he realised that she was deceased after he observed the horrific head injury caused by the direct shot to the back of the head. She was sitting with her back to Bryant.

Whilst on the floor he could still hear shots being fired in the room. Your Honour, the first two shots fired killed Mr. Moh Yee Ng and Miss Sou Leng Chung, visitors to this state from Malaysia.

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The third shot struck Mr. Sargent and the fourth shot killed Miss Scot. The single shot which killed Mr. Ng struck him in the neck and death was instantaneous.

I will comment about the suddenness of this incident later, but, your Honour, police investigators who attended the scene later were to observe that Mr. Ng still had his dinner knife in his hand after death. Examination of his body disclosed that the muzzle of the firearm was close to him when fired because there was gun powder stippling around the entrance wound. And, your Honour, just by way of explanation, that observation is a process used by ballistic experts to try and determine the distance between the muzzle of the firearm and the object or body which the firearm has been fired at. The range used by Bryant to cause the injuries and murder people in the café was in most cases at very close

Quarters and the terms used by the ballistics experts who examined the injuries of the persons who sustained injury and the bodies of the deceased gave three ranges of shots – close or contact, being either contact or within a few centimetres of the body – intermediate, being within a few centimetres out to about one to one point five metres – and then distant, being one to one point five metres and beyond. Certainly within the intermediate range and in the close or contact range there is, with a firearm such as the one used by Bryant on this day, a residue of unburnt propellant which is discharged from the muzzle of the gun which causes a stippling or tattooing effect around the entry wound.

Miss Chung died when the bullet fired towards her struck her left ear and continued towards the base of the brain and the skull causing lethal traumatic disruption to the base of the brain and skull. Assessment of the range of this shot was distant because of the lack of gunpowder stippling or searing.

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An examination of the scene indicates that Miss Scott who was sitting with her back to Bryant, probably first slumped to the table and then fell to the floor. As I said previously she was shot in the back of the head.

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Your Honour, I won't take you through in any detail the photographs but you have before you that bundle of photographs, I refer you to photographs 52 to 57. But if you turn to photograph 52, what you are looking at there, your Honour, is in fact the table with the Prince bag on it, as left by Bryant, and to its immediate left you can see with back to the camera the body of Mr. Ng slumped against the wall and Miss Chung leaning against the window and you can see just to the right of the bag, the right hand corner of the bag on the floor, further in to the back of the café, the body of Miss Scott on the floor. And those photographs 52 to 57 will then take you through the closer photographs of the three deceased.

The injuries caused by the use of this firearm were to say the least, horrific. There is no indication from an examination of the body of Miss Scott as to the range of that shot but he would have been quite close to her at the time of firing the gun.

There were five spent shells located near the bag, all fired from the AR15 semi-automatic rifle which was later recovered from Seascope and admitted by Bryant in interview with the police as belonging to him. The Crown case is that Bryant fired those four shots in a north-westerly direction towards the couple at the table on the western wall and then in a northerly direction towards Mr. Sargent and Miss Scott. He then turned and commenced firing the weapon at people further down the café on the western wall of the building, Mr. Perks indicating that south-western corner of the café.

Mr Sargent sustained an injury to his head which creased the top of his skull and which was described as a scalp laceration and, your Honour, the first two counts in the indictment, the murder of Mr. and Mrs. Martin I have briefly touched upon, they will be covered later when Mr. Perks deals with the examination of the scene

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of the Seascope. But I have just dealt with counts 3,4,5 and 6, count 5 being an attempt murder charge to which the accused has pleaded guilty and the Crown case is that the forward movement of Mr. Sargent in all likelihood avoided him sustaining a full blast of the weapon to his head.

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When Bryant started shooting, the other male at that table, Mr. Riviere, who had been going back to the counter of the servery – and that can be seen on the plan, the servery counter – jumped the counter and from behind the counter he observed Bryant firing his rifle. He later described to the police his observations and said that Bryant was not saying anything but he appeared to be laughing in an aggressive way rather than in an amused way. He said that Bryant walked from table to table shooting people in the head, he said he saw Kate Scott slumped over the table and he saw Mr. Sargent, who was calling out “Keep down, keep down”. He then observed Bryant moving towards the other end of the café, meaning the south-western corner, still shooting people in the head.

The Crown case is that having fired the four shots in the area where he had placed the bag, Bryant turned in the south-westerly direction, down the westerly wall of the café towards table 8, which is being indicated, 9, 10, 11 and 12 – and so that your Honour understands what happened thereafter I will describe the locations of persons at tables so that you can better understand what followed.

At table No. 8 a visitor to this State, Mr. Anthony Nightingale, was seated by himself facing towards Bryant, so in other words he was looking in a northerly direction. From the evidence of one of the witnesses in the café who survived, Mr. Nightingale stood up when the shooting started and called out “No, no, not here”, he was then shot, a single shot to the neck area causing fatal injuries with extensive damage to the larynx, thyroid larynx complex and the cervical spine. The path of travel of that bullet was downwards indicating that Mr. Nightingale was probably leaning forward as he was shot.

He was then seen to fall against the window by people outside the café whose attention had been drawn to it when they heard the shooting. That is count seven in the indictment your Honour, and I refer you to photographs 48, 50 and 51, and your Honour will see the nature of the injuries by examining photograph 51 that this firearm inflicted upon the people shot at in the café.

HIS HONOUR: 48 shows two bodies.

MR. BUGG: Yes.

HIS HONOUR: Mr. Nightingale is the –

MR. BUGG: Yes, 48 your Honour by way of description 48 shows Mr. Nightingale, he is the ---

HIS HONOUR: The one in the blue jeans is he? With coloured jumper?

MR. BUGG: That's – no, he's the person who is next to the wall your Honour.

HIS HONOUR: Yes.

MR. BUGG: There were many people in the café that day who were members of groups touring the Port Arthur site, one such group, ten persons in all, consisted of Mervyn and Maureen Schadendorf, Maree and Gary Broome, John and Gaye Fidler, Kevin and Marlene Sharpe, Ray Sharpe and Mr. Walter Bennett. They had arrived at the Port Arthur site in separate vehicles, six of them moving to the café to eat shortly after their arrival. They were awaiting the arrival of the other four but seated themselves at table nine and commenced eating their meal. They almost finished their meal when the others, Kevin and Marlene Sharpe, Ray Sharpe and Wally Bennett arrived

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and stood at the northern end of the table, being indicated by Mr. Perks, with their backs towards the position that Bryant was in when he placed his bag on the table. And they were standing when Bryant started shooting.

Having shot Mr. Nightingale Bryant moved at close quarters to shoot Kevin Sharpe, Wally Bennett and Ray Sharpe. The precise order in which these three men were shot is not clear. They were crowded towards the corner of the café with their backs towards Mr. Bryant. Mr. Schadendorf who was seated at the table believed that he saw Mr. Ray Sharpe shot in the side of the head by a close or near contact shot, saying that he heard Mr. Sharpe say "That's not funny" as the noise, the significant noise of this weapon being discharged was heard at close range by these people.

Then Mr. Bennet was shot in the neck, once again by a near contact shot. So in other words by now the Accused is at their bodies standing behind them pointing the gun and touching them almost with the barrel of the weapon.

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That shot which struck Mr. Bennett in the neck in the right side left an exit wound on the left and medical and ballistic evidence indicates that on exiting that bullet then struck Mr. Ray Sharpe, also killing him.

Mr. Kevin Sharpe was shot twice, once in the arm and once in the top of the head, the head wound was fatal. Mr. Ray Sharpe died of massive head injuries and Mr. Bennett died from injuries caused when he was shot in the neck. That's counts 8, 9, and 10.

And, your Honour, I refer you to photograph 38 and your Honour can then see Mr. Nightingale over against the wall. As you come towards the photographer there are other bodies, and I'll come to that in a moment, but Mr. Bennett and Mr. Sharpe, one of the Mr. Sharpes, is seen in the middle ground of that photograph. And then photographs 44 to 49 give a closer indication of those persons.

Mr. Gary Broome, who was also in the party and was seated at the table, was struck in the left side of his face apparently by bullet fragment which had struck another person, probably Kevin Sharpe. He was admitted to the Royal Hobart Hospital. And, your Honour, that is count 11. Your Honour, I don't want to create any confusion about the order in which this occurred but some people who attended the café on that day and survived probably have a vision of what occurred and a state of mind of the order in which things occurred. What we have tried to do is present an account which places as near as can be determined the order in which people were injured or shot at or killed and obviously there will be some discrepancies in terms of people's recall and their memory of this incident but this account is given based on assistance from both forensic evidence, ballistics evidence and examination of the bodies at

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the scene. Mr. Broome underwent surgery on the 29th of April for left side lacerations to his face caused by the passage of the bullet and there was removal of metallic objects from his face and some bony fragments.

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That your Honour, as I said was count 11. Mrs Gaye Fidler, another member of the party, received shrapnel wounds to her back after a bullet fragment, having struck one of the four people mentioned, passed on to hit her. Mr. John Fidler who was also seated at this table at that time was struck in the forehead by shrapnel fragmentation and he also sustained a small injury to his back with metallic fragments believed to be from another bullet which had fragmented on striking one of the deceased persons. He was treated for these injuries at the Royal Hobart Hospital and discharged. That's counts 12 and 13.

Your Honour, Mr. Kevin Sharpe's injuries indicates first of all a gunshot injury to the head which was fatal and towards the left side of his face. He also sustained another injury to his left arm. Because on the Crown case Bryant was aiming his shots at peoples heads it is highly likely that the left arm injury, because Mr Kevin Sharpe was standing at the end of the table, was caused by a shot aimed at one of the other persons seated towards the rear of the table and that Mr. Sharpe had turned, facing Bryant, at the time he was shot.

Bryant then turned towards table number twelve and seated at that table were visitors from Sydney, Mr. and Mrs. Tony Kistan and Mr. Andrew Mills. Mr. Mills and Mr. Kistan both stood up when the shooting started. Mr. Kistan pushed his wife towards the door, Mr. Mills was shot in the right rear of his head behind the ear at an intermediate range gauged on the basis that there was no tattooing or powder burning from the muzzle glass. This shot caused significant head injury which was immediately fatal. Mr. Kistan was also shot whilst standing up and the estimated distance of the muzzle of the gun from him at the time of shooting was two to three metres. He was shot in the left rear of the head. He had moved

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slightly away from the table in moving his wife towards the door. The photographs dealing with those incidents your Honour are photographs 38 to 43.

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And that's counts 14 and 15. Photographs 40 and 41 are of Mr. Kistan and 42 and 43 are of Mr. Mills.

Bryant then quickly moved towards the front central portion of the café in an easterly direction moving in the space between the tables at the front of the café and those located in the centre. Your Honour probably can't see it at that distance but if Mr. Perks could just indicate – on the day at this time there were tables in what now appears to be an open space and the tables were quite crowded together – but they have been pushed aside and you can see the tables to the left and right of that area that he is now indicating.

At table number 13, on the immediate left of Bryant as he turned and started to move eastwards along the café, there were eight members of a party of ten. The other two were seated at table number 16. The eight persons were Faye Richards, Carol Pearce, Fred and Pat Barker, Ron and Carmel Edwards and Robert and Alyece Elliott. The other two members of the group, Lindsay Richards and Ken Pearce. Were seated at table 16. At table number 14 there was a party of three, Mr. Graham Colyer, Mrs Carol Loughton and her fifteen year old daughter, Sarah. They were just preparing to leave the table, having finished their meal, and they were standing up to put their coats and jackets on. Shortly prior to that four other visitors to the historic site had been seated at this table but they had, a

short time previously, finished their meal and left the café. I will mention their names later – as they moved up Jetty Road with Mrs Mikac and her two daughters.

At table number 15 Mr. Peter Crosswell was seated with Thelma Walker and Pamela Law.

To the right of Bryant as he moved eastwards were two tables against the front window of the café. The first on, table number 18 was occupied by Mr. Mervyn and Mrs. Mary Howard.

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They were seated having their meal. At the other table was a party consisting of Mr. Jason Winter and his wife, Joanne, their one year old son, who had been brought there in a pusher, and Mrs. Winter's father, Mr. Ron Fowler, who had visited from New Zealand.

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When Bryant first started shooting, Mr. Winter wasn't at the table, he'd gone back to the servery area – if that could be indicated – in a position somewhere behind that fireplace which is marked almost in the centre of the café, the fire place, and he was returning the plates and trays because the party had finished its meal. When Bryant shot Mr. Kistan and Mr. Mills he was to their west, to the west of them, and his gun was therefore pointed in an easterly direction placing the people at tables 13, 14, 15, and 16 in his firing line. Thelma Walker and Pamela Law at table 15 were struck with shrapnel or fragments from the shots which killed Mr. Kistan and Mr. Mills. Mrs. Walker sustained shrapnel wounds to the right temporal region, to the back and right ankle. Mr. Crosswell pulled both women at that table to the floor and as Mrs. Law was being dragged to the floor she felt a graze to the rear of her head and while on the floor felt stinging sensation to her right side. It appeared at the time that she had been shot directly but further examination revealed that the injuries were also shrapnel caused; that's counts 16 and 17. Both women and Mr. Crosswell sheltered under the table while Bryant continued through the café shooting at people.

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People were now starting to realise that what was happening was a real life drama and that what had first appeared to be a re-enactment – and, your Honour, that was the response or the reaction of many people who were in the café and at the site on that day, a lot of them were seasoned travellers who had visited other historic sites such as Sovereign Hill where there had been re-enactments and that was their immediate assumption when they heard the gunfire, and they were then starting to realise that this was not a re-enactment and that their lives were in danger. They had little or no opportunity to react, your Honour, let alone escape, they certainly did not have any opportunity or means to retaliate.

THEN FOLLOWED THE MORNING ADJOURNMENT

THE COURT RESUMED

HIS HONOUR: Yes, Mr. Bugg?

MR. BUGG: Thank you. Before I continue, your Honour, if I could just correct one matter in what I'd – about the material I put before you before the adjournment and that is, if I could take you to the photographs near the window of Mr. Nightingale and Mr. Sharpe. I believe in taking your Honour through those photographs I have incorrectly identified Mr. Sharpe. The photograph 48, Mr. Nightingale is the body – it is his body which is the closer one to the camera.

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I hadn't formally tendered that plan but there'll be three plans briefly referred to, your Honour, and I'll tender all three as a bundle, being a statement of facts on a plea of guilty I would seek leave not to have to follow the strict requirements.

HIS HONOUR: Yes. There's no objection from the defence.

MR. BUGG Q.C.: Your Honour, proceeding on from the location we were at the adjournment, Patricia Barker and her companions were at table number 13 and they reacted and took cover under the table on the floor, Mrs. Barker received shrapnel wounds to the right upper arm, left hand and left cheek. These injuries were sustained by

fragments of shrapnel most likely from the fatal shots towards Mr. Kistan and Mr. Mills. She sustained those three injuries before she was able to get to the floor. That's count 18.

It's now that the events taking place in the café become quite confusing. People concerned for their safety and the well being of their companions were taking evasive action and observations become quite understandably confused and affected by the urgency of the situation. Whilst it is important to try to place in a correct time frame the sequence of the events which took place in the café it is, for the purposes of these proceedings, important that the basic ingredients of the crimes are detailed and the relevant particulars placed before your Honour.

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Many people, not only in the café but elsewhere, observed some of the happenings of the afternoon. They have all made statements to the police. Those statements, coupled with ballistics and forensic evidence, have been used to try and piece together as accurately as possible the events of the day.

At this time it is believed that Mr. Bryant shot Mr. Colyer who, along with Mrs. Loughton and her daughter you will recall, were getting ready to leave the table. Mr. Colyer was shot from about six to eight feet away. He sustained a gunshot injury to the neck near his jaw and the bullet exited at the right back of Mr. Colyer's neck. His serious injuries were treated in emergency surgery at the Royal Hobart Hospital. When he fell to the floor he remained conscious, almost suffocating on his own blood. He could see Sarah Loughton on the floor in front of him and knew that she was dead. He was later airlifted to the Royal Hobart Hospital. That, your Honour, is Count 21.

Mr. and Mrs. Howard were seated at their table near the front window of the café. He shot Mr. Howard when he was still seated. Later his body was found to be on the floor but that's understandable bearing in mind the attention and treatment that people tried to give and administer to the dead and dying in the café on that afternoon.

The Crown contends that Bryant had not moved from the position he was in when he shot Mr. Colyer, and he merely swivelled to shoot Mr. Howard. The bullet struck Mr. Howard in the head, killing him instantly. He fell forward onto the table. The bullet continued on its way through the window of the café and that bullet passed the table at which Mr. Beekman and Miss McKenna had been seated.

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That, following the shooting, caused – the noise of the shooting caused Mr. Beekman to immediately depart the balcony of the café and seek refuge. Miss McKenna had already moved off the balcony when she heard the first shots fired.

Bryant then moved closer to that table,

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and he fired a further shot striking Mrs. Howard in the neck. That was a non fatal injury. He then at some time shortly after that, changed position, leaned over the vacant pusher belonging to Mr. and Mrs. Winter and placed the muzzle of the gun near Mrs. Howard's head and shot her a second time. The massive fatal head injuries that caused can be observed your Honour from the photographs 66 to 70.

Your Honour, as I have said, the sequence of these shots is difficult to discern but most likely, relying on the evidence of Mr. Lindsay Richards, they occurred in this sequence; Mr. Richards was at table number 10, no I'm sorry, sixteen.

MR. PERKS: That's a sixteen.

MR. BUGG: Sixteen, thank you Mr. Perks, closer to the print. And he thought that Bryant, when he leant forwards with the gun, was going to shoot into the pusher. But in fact at that time Mrs. Winter had taken cover on the floor under the table together with her son and her father.

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Mrs. Winter was trying to placate her child who was distressed and crying at what was happening, and obviously alarmed that any noise would attract Bryant's attention towards them. Clearly, Bryant intent on shooting Mrs.

Howard did not observe the three persons taking cover under the table. Whilst not relevant to the question of criminal responsibility, your Honour, it is important to understand how confusing the situation must have been. People who survived describe their feelings of utter helplessness and almost a fatalistic acceptance that they were likely to be the next to be shot.

Carol Loughton and her daughter Sarah who had been with Mr. Colyer were separated by a short distance but Sarah ran towards her mother and they both fell to the floor together with Mrs Loughton covering her daughter. Mrs. Loughton described the noise of the gun being discharged as very loud. She in fact has a ruptured eardrum caused by the explosion of that firearm. Whilst Mrs Loughton and her daughter were on the floor, Bryant shot Mrs Loughton in the back and shot Sarah in the head. It is most likely at this time that the close proximity of the shot to the back of Sarah's head caused the explosive noise which ruptured Mrs. Loughton's eardrum.

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They are counts 23 and 24 and I refer your Honour to Photograph 63 to 66 which depict the injuries sustained to the deceased, Sarah Loughton.

The injuries caused to persons by this firearm were, as your Honour can see, horrific. Mrs. Loughton sustained a wound to her back which was ten centimetres in diameter. She was later evacuated by helicopter and did not know until she had been operated on and come out of surgery the next day that her daughter had been murdered. Sarah Loughton appears from the medical evidence and ballistic examination to have been lying on the ground with her right hand under her head when she was shot. Her right hand was injured as well, suggesting that she had fallen to the floor with her mother and then shot.

Your Honour, perhaps it is appropriate at this stage that I tender - well, I suppose it is not necessary to tender it in evidence - and I would seek that direction. I don't know whether my learned friend has any submissions about that, but I would certainly prefer the availability of the police safe to remove this firearm and the other firearms that were at Port Arthur on that day. Does your Honour have any problem about that?

HIS HONOUR: Well, I think the firearm should be retained in that custody. As far as other exhibits are concerned they should be retained in the custody of the court.

MR. BUGG QC: Yes, well, perhaps maybe they could be marked for identification and then later returned to the custody of the police. Your Honour, that is the AR15 semi-automatic .223 rifle which was used by Bryant in the café and at other locations on that day. It is the weapon which the Crown says he purchased shortly before this incident. It is the same as the weapon he enquired about at another gun shop in Hobart.

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The magazine which Mr. Mace has with him was the magazine fitted to the gun at the time Bryant entered the café. It is a thirty shot magazine. The weapon is very light, it is semi-automatic, not fully automatic, and there is apparent damage to it because it was recovered by the police from the Seascope ruins the next day.

FIREARM and MAGAZINE – MFI A

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MR. BUGG Q. C.: A –

HIS HONOUR: Yes, it's marked "A".

MR. BUGG: Thank you, your Honour. Bryant was now moving towards the gift shop area of the café, which can be seen to the eastern end and the whole eastern wall of the café was devoted to the sale of souvenirs, gifts and craftware and part of the craft display came down to the southern end of the café towards the front window. And your Honour will see that there is an exit door shown out on to the balcony though that display area. At the time of this shooting that door was locked and was unable to be opened either internally or externally without the appropriate key. As Bryant moved towards the gift shop area he passed table 13 and Mr. Robert Elliott at that table stood up and in the confusion of the moment, he later told police he is just not certain why he did so. He certainly didn't have any spare room to conceal himself under the table as the area was now fully occupied, most of the

people at the table had tried to take some sort of cover underneath the table. He states that in the confusion of thought in the time that he had to think he felt that his movements may distract the gunman and he felt that he had a reasonable chance of making it to the fireplace and safety. Mr. Elliott was shot twice as he moved, once in the left upper arm and once in the head. The head injury left some metallic fragments external to his skull, causing a head injury as well which resulted in some loss of vision due to swelling of the brain. He underwent surgery and plastic surgery on the 28th of April, 30th of April, 2nd of May. Your Honour, I haven't gone into all the detail of some of the injuries and the treatment received for them but it has been a common experience for some of the people who suffered more severe injuries to have had as much as ten visits to surgery as a result of the injuries they sustained.

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He was discharged from the Royal Hobart Hospital on the 4th of May and transferred to the Monash medical Centre. Your Honour, if you look at photograph 62 you will see just towards the hearth of the fireplace and clothing and bloodstaining on the floor that's where Mr. Elliott fell. That's count twenty-five in the indictment your Honour.

Your Honour, it's appropriate at this stage that I ask your Associate to play a portion of a video tape which is a compilation. I will ask her to stop the tape at a particular point but I do so your Honour for the simple reason of illustrating to the Court and to the members of this community the short period of time in which the incident that I've just been talking about occurred. It's my estimation that at that point at which Mr. Elliott was shot Bryant had been shooting for fifteen seconds. And this video tape may illustrate that.

EXHIBIT P.3 – VIDEO TTAPE – TAKEN IN

This first tape was filmed by Mr. and Mrs. Wilkinson from Corio who were attending the site on the day. It's start filming across the roof of the Broad Arrow Café. Across the car park area and towards the ruins of the historic site, the penitentiary area. If that could be played now, thank you.

VIDEO PLAYED TO COURT

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VIDEO STOPPED

Mr. BUGG Q.C.: Your Honour, that shows just to the right of the frame in the middle of the picture the yellow Volvo with the roof rack. That was filmed some time after the initial piece of filming and that is Bryant entering his car and about to reverse his car out and leave the carpark area. If the film could be played on now.

PLAYING OF VIDEO CONTINUED

Mr. BUGG Q.C.: This is a second film taken at the critical time from the penitentiary area and it is significant because of the noise level which can be heard of the gunfire from the café some hundred and fifty –two hundred metres away. If that could be played.

SECOND VIDEO PLAYED TO COURT

Mr. BUGG Q.C.: This was filmed by a Mr. Barry Turner. The four buses that can be seen will become relevant later when I deal with Bryant's conduct in the carpark.

VIDEO CONTINUING

Mr BUGG Q.C.: By then he's moved away from the site and shots can be heard in the distance, which I'll comment about later.

VIDEO CONTINUING

Mr. BUGG Q.C.: Just near that little guardhouse you can see just below the fence two people, one of them is Miss Brigid Cook who was shot and was sheltering there.

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Mr. BUGG Q.C.: If that could be stopped now and played forward to the next spot. The rest of that is really not relevant to your Honour's consideration but it does film the arrival of one of the Emergency Services helicopters and part of the evacuation process.

TAPE TURNED OFF

Mr. BUGG Q.C.: Your Honour, what you heard from those two sections of video film which recorded the gun shots was in fact a recording of the shots fired from the moment Bryant picked the gun out of the bag and started shooting in the café.

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The first tape, the Wilkinson tape, stopped after fifteen seconds and it recorded seventeen shots. The second tape, the Turner video, as far as the sound of shots in the café is concerned, stopped after twenty-five seconds and recorded twenty-one shots. I tender for your honour an audio response chart recorded off both films and your Honour will see the sharp, wide, white markings illustrating the timing of each shot and attributed to each tape. But if one goes back to the Wilkinson tape, which stopped recording sound after fifteen seconds, in those fifteen seconds twelve people were dead, one had suffered grievous bodily harm, five were wounded and four had suffered significant injuries in Bryant's attempts to murder them.

EXHIBIT P4 – CHART – TAKEN IN

HIS HONOUR: And all of this was caused by the seventeen shots?

Mr. BUGG Q.C.: Seventeen shots.

You will remember, your Honour, that the five wounded people suffered shrapnel wounds which were the by-product of hitting an intermediate target and then fragmenting so that what you have are seventeen shots resulting in twelve deaths and subsequent wounding and four attempted murders and one caused grievous bodily harm. I will come back to the numbers of shots fired and what occurred at the end of an examination of the criminal behaviour of this man in the café that afternoon.

Bryant continued eastward towards the souvenir shop area of the building. Working in this area of the shop on that day were Nicole Burgess and Elizabeth Howard. I will describe the placement of people in that area of the shop – Mr. Perks has just indicated a counter area which was a serving counter at the gift souvenir shop section and below it, depicted in sketch form the bodies of both Nicole Burgess and Elizabeth Howard. But there are a number of persons as I said at the outset, your Honour, who had moved to this area of the café, they were examining souvenirs, some of them waiting

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for other members of their group to either finish a meal or return plates and trays to the servery area.

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In the gift shop area was Sandra Vanderpeer, an Army Major, who had travelled to Tasmania with her aunt Jenny Moor, and they had been looking at the displays for about ten minutes when the shooting started. Miss Vanderpeer realised immediately what was happening and moved quickly to the display table right at the back of the souvenir shop. She sheltered behind that table along with Beverley and Peter Kelly. You will remember I mentioned Mrs. Kelly having seen Bryant on the balcony at lunchtime. And Mr. Kelly had moved to the gift shop area of the premises to wait for his wife while she returned a coffee cup.

Ron Neander and his wife Gwen were also in the gift shop. Mr. Neander had noticed Bryant in the meal queue earlier in the day. When he heard the shooting he saw Mrs. Howard shot and then took cover behind a display table in the souvenir area. That table is the square table which Mr. Perks is now indicating and he was hiding behind the table on the northern portion of the floor. If you look at photograph 79 that photograph your Honour is taken looking down towards the water, in other words the front windows of the café, and you can just see in the foreground a red garment which is on the display table, behind which Mr. Neander was sheltering. It gives a better idea of the close proximity of everything in this area of the souvenir shop.

His wife was near the steps into the front part of the display area. If that could perhaps be indicated. The steps, the step down is that line going east to west marked by Mr. Perks. In the gift shop area were four friends who had been travelling together, Coralee Lever and her husband Denis, and Vera Jary and her husband Ron. They heard the shooting start and Mr. Jary thought

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it was an re-enactment and said so. And as I said this unfortunately was the response of many of the people in the café, although I guess arguably a realisation of the correct situation would probably have not made any real difference on the day.

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Mrs. Lever, Mrs. Jary, Mrs. Moor, the auntie of Sarah Vanderpeer, hid behind a hessian screen. That's the slight triangulated section that Mr. Perks is indicating. And if you turn to photograph 80, your Honour, that is the screen with the jumpers hanging on it – and that was moved out to enable the three ladies to get in behind it and it was then drawn back behind them. I have little doubt that act saved their lives.

Another couple, Peter and Carolyn Nash, were also in this area of the premises. They moved to the door out of the gift shop area – if that could be indicated- but, unfortunately, that door was locked. Mr. Nash told his wife to get down and covered her. Near them was Pauline Masters, she had travelled to Tasmania with her sister and mother and had left them outside the café to enter the premises and look at things in the gift shop. Bryant moved towards the souvenir area, he shot Nicole Burgess, she was standing near the counter. He was standing some distance from her when he shot her and the shot struck her in the head. She fell forwards and the shot – the injuries caused were immediately fatal. He then shot Elizabeth Howard through the right arm and chest, this was probably because she had turned to her right away from Bryant. She received a further gunshot wound through the chest, probably as she had fallen to the floor or was actually on the floor with Bryant moving further into the gift area to fire that second shot at her. Both wounds caused to Elizabeth Howard were fatal. That's counts 26 and 27, your Honour. And I take you to photograph 72 through to 75 showing the bodies of the two deceased behind the counter in the gift shop area and the injuries sustained by them depicted in photographs 74 and 75.

At this point Bryant turned the gun on Mr. Lever and shot him in the head.

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I refer you to photograph 76.

Mr. Lever had obviously moved from the area where his wife was to take some cover and you can just see it on the plan behind a pillar. But that is more evident in the photograph, your Honour. And his body fell just near that pillar.

Bryant was most likely still at this stage on the far side of the service counter when he shot Mr. Lever.

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Whilst it appears some distance from that plan, in reality when you look at the photograph it wasn't very far at all. That was the count – yes, I've covered that. Bryant then fired towards Mrs. Neander who was on the step near the wall behind the counter, he struck her in the left lower side of the face and she was killed instantly – I refer you to photograph 79 through to 82, and that your Honour is count 29.

Bryant then appears to have been distracted by movement in the café area back towards the west and somewhere near the fireplace because he turned and moved back in the direction from which he had come to a point near the table at which Mr. Colyer and Mrs. Loughton had been seated. Some people described Bryant moving backwards and forwards through the café. When one considers that we are probably now talking about him being in the café shooting for about, at the outside, thirty seconds, the one movement backwards and forwards is on the estimate of the ballistic experts and people who closely examined the scene the likely interpretation that people had. He fired into the café injuring Mr. Crosswell who was still under the table with the two women – that's count 30 – the shot struck him in the buttock.

Jason Winter, who you will remember had gone through to the servery area, who must have heard a pause in the firing after he had shot Mrs. Neander, thought Bryant had left the café going out that way. He was sheltering along

with two other people and he made a comment to that effect, and I will come back to that in a moment, but he obviously started to move and it's probably his movement that attracted Bryant. He was probably in an almost upright position coming out from behind the area in which he was sheltering, he was heard to call out "No, no" and Bryant fired twice at Mr. Winter, the first shot struck him as he was getting up, injuring his hand, neck and chest, and the second shot struck Mr. Winter in the head. He died from the head and chest injuries sustained from these two gunshots

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and his body fell partially under a table being identified by Mr. Perks with the pointer just to the western side of a brick fireplace.

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That's count 31 and Mr. Winter's position in the café is shown in photographs 58 through to 60 and injuries shown in 61.

He was sheltering with Mr. Dennis Olson and his wife, Mary, and after that pause in the shooting he was heard by the Olsons to say, He's gone.", and then he started to move and it was at that time that he was shot. Shrapnel from those shots struck Mr Olson in the hand, head, left side of the chest and left eye. He was treated at the Royal Hobart Hospital that night and was discharged the next day for the follow up with his regional medical officer on his return home.

Having fired those shots Bryant then returned to the gift shop area. And, your Honour, it becomes a little confusing at this stage as to just what Bryant did in terms of the firearm because the position is that the Crown suggests that he had twenty-six rounds in the 30 shot magazine when he entered the café because at some stage some considerable time after this event he is attributed as having said that to put thirty shots in the magazine jams the spring clip so he normally put twenty-eight in it. But he fired two shots before he went to Port Arthur, leaving twenty-six. Twenty-nine spent shells were retrieved from the café, and each one of those is marked on that plan 'FCC' – Fired Cartridge Case, which will be in evidence, your Honour. The thirty shot magazine was discarded when empty by Bryant near the servery counter and that's actually shown on the plan which your Honour will have in due course. Why I say there is some confusion about this – I will now explain what occurred: Having returned to the gift shop area he found Mr. Jary, Mr. and Mrs. Nash and Pauline Masters and an unidentified Asian gentleman all crowded together towards the locked door near the gift shop.

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He shot Mr. Jary through the right side of the neck at close range. They had no where to go. He then shot Pauline masters to the right cheek in a downward direction at intermediate range.

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I say that because the ballistics people who examined the body of Miss masters could not detect any powder burning or tattooing.

He then shot Mr. Nash, possibly not moving any closer than the position from which he had stood in when he shot Pauline Masters. You will recall I said that Mr. Nash was covering his wife's body with his. He was also shot in the head near the left ear. All those injuries were immediately fatal. That your Honour, is counts 32, 33 and 34 and the position of the bodies of the deceased and the injuries they sustained are shown in photographs 83 and onwards. And you will see just how close, closely confined, those people were in the position they were trapped in when Bryant re-entered that part of the café. 83, 84 and through to 89 in fact your Honour.

HIS HONOUR: What count number relates to Mr. Olson's wounding?

MR. BUGG: That your Honour you must come back through the indictment, it's earlier in time, and re-assessment by the ballistics experts have Mr. Olson, I think it's count 19, I'll just check.

HIS HONOUR: Yes, it is.

MR. BUGG: It was thought at one stage that he may have been injured by shrapnel fragments from the eastward shot which killed Mr. Kistan and Mr. Mills, but in fact a re-examination of that indicates that he was hit at the time

Mr. Winter was being killed. Why I said there was some uncertainty about the changing of the magazine your Honour is that there was in that area, you will recall I mentioned just a moment ago, an unidentified Asian gentleman. And the best construction

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which can be given to all the evidence, or which could have been given to all the evidence gathered, up until about three days ago was that Bryant had tried to shoot him but his gun had either misfired or struck empty because the magazine had run out. And why we say that is because another witness in another part of the historic site shortly after this saw an Asian gentleman who had blood splatters on him who said that he had been sheltering in this area of the shop and a shot had been, well the gun had been pointed at him and the trigger pulled, but the gun didn't fire.

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Only three days ago the police were able to track him down and obtained a statement from him but that would appear to have been the situation, that he luckily found himself confronted with certain death and the gun either misfired or struck empty. It's unlikely that it misfired because there were live rounds found in the café area. In any event, your Honour, twenty nine shots in all were fired in the café and the point of which the magazine was removed, as far as Miss Vanderpeer is concerned and she, as I said, has Regular Army experience, was at the end of the shooting when she could hear the sound of the magazine being changed. It's a plastic fabric and would make a fairly hollow noise, obviously, when being changed over. Having reloaded his firearm Bryant then left the café.

Your Honour, it is hard to express in any finite terms the precise period of time Bryant was in the café but I would put to this court that he was in there for approximately one and a half minutes to, at the outside, two minutes, whilst he was firing his gun. In that time he killed twenty people, attempted to kill four, wounded six, and caused grievous bodily harm to one. He fired twenty-nine shots, very few of them missed a target, and most of them struck targets when fired at either point blank or close range. There is absolutely no doubt as to his intent and his desire to cause maximum carnage.

Mr. Perks and I were discussing an appropriate term for his conduct and wondered about the appropriateness of execution and concluded that it was appropriate to term what he did in that café as 'slaughter'.

It is difficult to describe in unemotional terms the scene which Bryant left behind. Many of the people who were in the café at the time and survived to talk about it spoke of little other noise than gunshot.

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Few of them heard screaming or sounds of panic and as I say speak only of the oppressive noise of the rapid fire of this gun.

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People had been separated from their companions and loved ones, facial injuries gave the appearance of being fatal and in other instances gave the appearance of being non fatal whereas the reverse applied. People wanting to find their companions and loved ones were torn between the hazard of showing themselves and the anguish of fearing the worst. Some people were able to flee from the café area whilst Bryant moved further eastwards in the building, they were unaware of the well-being of the people who remained inside. When the shooting started there were obviously staff employed at the café working in the food preparation and serving area who were confronted with Bryant's conduct. They hastily ran from the serving area into the kitchen area of the café, which is, of course at the northern end of the plan.

Miss Brigid Cook who was working in the kitchen area at the time was warned by the other staff that someone was shooting in the café. She, along with three other staff members, then ran from the café and out the back of the café and Miss Cook then ran – the other three ran to gain shelter in the trees and shrubbery behind the café whereas she ran in a westerly direction towards the Information Centre to warn others as to what was happening. She first of all spoke to people near the Information Centre who appeared to be moving towards the café and then she made her way down from the café towards the carpark area and the tour coaches, again warning people to keep clear. She describes her feelings at the time as being uncertain and possibly making a big fool of herself because she had not in fact seen any shots fired and she wondered whether she was pressing a false alarm button.

Your Honour, perhaps it's appropriate at this time if the plans could be changed, I'd ask Mr. Perks to assist

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on that. I'm hoping our assistants in the other two rooms are moving with the same speed that Mr. Perks is but I'll pause for a little longer whilst your Honour examines that plan. These facts are moving a little more quickly –

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Can your Honour now make out the red outlines of the tables in their original locations?

HIS HONOUR: Yes I can thank you.

Mr. BUGG: I seek leave now to tender that plan your Honour as a plan of the interior of the café at Port Arthur.

EXHIBIT P.5 – PLAN of BROAD ARROW CAFÉ – TAKEN IN

The plan which is now being put on the wall your Honour is a plan of the Broad Arrow Café drawn as one would see it from an aerial view, and that's the large square building which Mr. Perks is now indicating. To its left you can see tarmac markings which make up part of the car-park and directly above those car-park markings is the Information Centre to which Miss Cook moved to make the warning that she did to the people coming towards the café. Your Honour will remember that I pointed out in the video film four tour coaches, they can be seen drawn into the plan down towards the waters edge. The cars which could also be seen parked along the waters edge are also drawn into the plan. What is shown on that plan is as near as can be re-constructed by the Police Investigative team the movements of Bryant which can be shown in a dotted line moving from the front steps of the café down towards the buses, along down towards the waters edge, and then his movements which I will describe as we now move through this part of the incident.

HIS HONOUR: Whereabouts was the prisoner's car parked initially and then subsequently?

MR. BUGG: It was always, it was initially parked further up to the north-western corner of the carpark but then he moved it back to the waters edge after he had spoken to Mr. Kingston and it was about the fifth

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car along from the buses.

HIS HONOUR: Yes thank you.

MR. BUGG: That becomes relevant because some people sheltering on the bus observed him go to the rear of the car and change firearms. At the next phase of the shooting Bryant changed from the A.R.15 armalite to the Fabre Nationale S.L.R. rifle which he had also taken with him.

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As I said, Miss Cook moved towards the tour coaches, there were four parked in the area, and she moved to the rear driver's side of the trans-Otway coach, and there were a number of people obviously gathering there. At about this time, Bryant was leaving the café, he stood on the balcony and discharged his gun towards the ruins on the other side of the bay and he also fired near the sports ground and the coaches. People were by now departing the area on foot. He also fired one shot towards the Visitor Information Centre. The crown case is that he was clearly firing indiscriminately at people without perhaps selecting specific targets – certainly the weapons he used were capable of hitting people at the range he was firing. He was using a full metal jacket ammunition.

The Crown case is that at the time he fired towards the visitor Information Centre he was intending to hit people who were near the centre. One of those persons, Mr. Ashley Law, is an employee at the Port Arthur historic Site and he was at the Information Centre trying to move people away when he fired, Bryant fired, towards the Centre. The shot could be heard going through the trees behind where Mr. Law was standing. That, your Honour, is count 35, and Mr. Perks is indicating the line of that shot which is in fact marked on the plan.

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HIS HONOUR: Would you demonstrate that again, Mr. Perks? Thank you

MR BUGG QC: It is not quite clear, obviously, at that distance, your Honour, but with some assistance we will make it clear through Mr. Perks. Bryant then moved off the balcony down towards the carpark and that's the dotted line that we showed your Honour previously. What occurred in the carpark area was observed by many people, some of whom were able to view part of what occurred, whilst the observations of others is subject to the qualification that their observations were made under stress of being in close proximity to this horrifying violent situation. A sudden series of incidents had occurred without warning and in many instances people were taking evasive action and moving to obtain or try to obtain cover or protection from Bryant's murderous behaviour. Likewise, of course, your Honour, there are some people who still at this stage were thinking that what was occurring was a re-enactment, so their observations of people around them were fairly, shall we say, fleeting, in the senses that they were focussing their attention on the café.

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The area of the buses, and of course they didn't remain there indefinitely, your Honour, is shown in one of the photographs in that bundle, photograph 222, and that's only one of the buses remaining at the scene and that's the Trans Otway bus which can be shown on the plan which is now on the screen as the one at the most eastern end of the four coaches that were parked there. Your Honour will see, and I'll come back to that later at photograph 236, that shots were fired obviously at that bus.

I indicated that Miss Cook had run across the front of the four passenger coaches. She warned people and then stood with some others at the rear of the Trans Otway coach, in other words, near the water. Bryant walked towards the front of the coaches from the Broad Arrow Café whilst a number of people, following Brigid Cook's warning, were moving between the Redline and the Tigerline coaches towards the rear of the buses. So they were moving quickly down between those two buses towards the water's edge.

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Also one of the coach driver's Mr. Royce Thompson, was half way along the passenger's side, that is the outside side of that bus when he was shot in the back by Bryant. That caused Mr. Thompson to fall to the ground and he then staggered or crawled to the rear of the coach where he then rolled underneath the coach. He died from that gunshot wound to the back, which caused significant internal injuries to his chest. We're dealing now with count 36 in the indictment, your Honour, and I take you to the location after the buses or the coaches had been removed of Mr. Thompson. You can see his body in photographs 27, 28 and 29.

Bryant then walked across the front of the buses to the front of the Trans Otway coach, shooting at the group of people which by now had arrived at the rear of that coach. One of the persons in that group was Miss Cook and one of the shots fired towards them struck her in the right thigh. The bullet passed through her right leg and entered her left leg, causing significant injury to her right thigh and leaving a substantial portion of the bullet in her left thigh.

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Later she was admitted to the Royal Hobart Hospital and has undergone surgery on the Twenty-eighth of April, First of May, Third of May, Sixth of May, Ninth of May and Thirteenth of May.

Miss Cook together with another coach driver, Mr Ian McElwee, she had suffered bone injury from these shots, then ran across the back of the coaches and later took shelter near a small wooden guardhouse, which Mr Perks is indicating. And you will recall your Honour I pointed that out.

HIS HONOUR: Saw that in the film.

MR. BUGG: In the film, that's it. And she remained there until obviously this incident had passed through the historic site car park and moved on to other areas. Yvonne Lockley, a visitor from South Africa, was amongst a group of twenty-one persons travelling by coach on a visit to the ruins. Also included in this group was Miss Winifred Aplin. They were standing in the group which also included a Melbourne family Mr and Mrs Roganovic. Bryant pointed his rifle towards this group and shot Mrs Aplin in the right side at a distance of about six to eight metres. She fell to the ground and died where she had fallen. She had been running to the coach with Yvonne Lockley when she was shot. A further shot fired towards them grazed Mrs Lockley to her cheek, however, she was able to enter the coach and shelter there until the shooting had stopped.

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The murder of Mrs Aplin is count thirty-seven and the shooting of Mrs Lockley is count thirty-nine. Mrs Aplin's body is shown in photographs 32, 33 and 34 and 34 will give you some idea of the location relevant to the Trans-Otway coach.

THE COURT ADJOURNED UNTIL 2.15 P.M.

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THE COURT RESUMED AT 2.15 P.M.

MR. BUGG QC (Resuming facts): Yes, thank you your Honour, when the court rose for the luncheon adjournment I was dealing with the accused's conduct in the car park. Near the coaches, which were being pointed out by Mr Perks, at that time was a couple from the East Coast of Tasmania, Neville and Janette Quin, together with two other people who had travelled with them on that day to Port Arthur. They started to move along towards the jetty, which can't actually be seen – actually part of the jetty can be seen right along the foreshore in an easterly direction – when the warning was first given. But then they were warned that Bryant was also moving eastwards along in front of the buses so they then tried to double back and they were hurrying towards a position where Brigid Cook was when she was shot. Mrs Quin was shot in the buttock and fell to the ground and the position where she fell was almost directly where Mr Thompson, the coach driver, had fallen earlier.

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As Bryant walked eastwards people tried to make their escape along the foreshore. Mr Doug Hutchinson, who was also a passenger on the Trans-Otway coach along with his wife Irene, had been called to the coach earlier by the driver because he was about to drive away, so of course there were obviously people congregating near the coach. And Mrs Hutchinson, when the warning was shouted, was able to enter the coach but her husband was too far away so he ran to the rear of the coach to take cover. He was shot in the arm and the force of the shot knocked him to the ground, he was wounded in the right forearm. He then made his way along the foreshore towards the jetty and sheltered there. That your Honour, is count 40.

Bryant then walked to the boot of his vehicle, which was parked five vehicles to the east of the closest coach. He changed weapons this time taking out of the boot a semi-automatic point 308 F.N. or commonly called an S.L.R. or self-loading rifle. This was a military style weapon, he had taken that with him along with ample ammunition, and he then fired the weapon across the water towards the ruins and back towards the café. He then walked to the driver's door of his car and for some reason sat momentarily behind the steering wheel of his car and then walked back towards the coaches.

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when he fired towards the ruins it is the Crown's case that he was firing, once again, indiscriminately towards people he could see in an endeavour to hit them. One of the visitors to the site, Mrs Denise Cromer, was on the historic part of the site near the boardwalk at the rear of the penitentiary. She heard the shots fired by Bryant and saw some gravel fly up from the pathway a foot or two in front of her and she also heard a second bullet pass by in the air. Once again she was originally lulled into thinking that this and what she was observing was a re-enactment and, in fact, she was puzzled at how ingenious it could be that a small explosive device could be implanted in the path to have such a realistic effect. At about this time Mr Rodney Horrocks and his wife were at their car, in fact they had sat in the car to have their midday meal –

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Mrs Cromer was count 41, your Honour, if you're looking at the indictment. And when the shooting started another person who had visited the site with his family, Mr Dennis Nudd, made his way towards the car to warn them but they alighted from the car – and Mr Perks is indicating where that car was parked on the roadway, not down in the carpark area but the roadway which runs along the front of the verandah area of the café. Mr Horrocks asked his wife to shelter behind the car at about the same time as Mr Nudd arrived warning them that they should take cover. Bryant must have noticed them because at that time he was towards the rear of his car and they were of course therefore in full view because there is a slight elevation back up towards where the Horrocks had parked the car. He then brought his rifle, that is, the SLR to an aiming position at his shoulder and fired the rifle towards Mr Nudd and Mr Horrocks as they took cover behind a tree. He fired at them and the shot struck the tree that they were taking cover behind.

Your Honour, if you turn to photograph 11.79, towards the rear of that bundle of photographs, you can see from first of all 11.79 the elevated effect that I was talking about, the row of cars in which Bryant's car was parked is that down near the water's edge and Mr Horrocks, of course, was on the upper roadway strip that you can see. Then when you turn to 11.82 you can actually see the wound to the bark of the tree caused by the passage of the bullet that was fired by Bryant and so that you have a good idea of the height at which that shot was fired through you will see that a police officer is indicating with a ruler through the gouge out of the bark of the tree in photograph 11.92 the height of the passage of that bullet. Those charges are contained in the indictment under counts 44 and 45 your Honour.

HIS HONOUR: It's a one act, Mr. Bugg, is it, that's claimed to constitute two separate crimes?

MR BUGG QC: Yes, the perception was that there was more than one shot fired but only one hit the tree, Your Honour.

HIS HONOUR: Well, that's the way it is being put to me – that there is not one single act, there were actually two acts of firing.

MR BUGG QC: Yes. (Resuming) In fact one of the people sheltering behind the tree – and I can't remember which one it was now – described the impact of the bullet as it went past the tree as a very resounding thud and a shudder through the tree. Mrs Pauline Sloane, as well, your Honour, had visited the site with her husband and she was making her way along the foreshore with Mr Hutchinson, you remember, the man who was injured in the forearm. They were sheltering along the front of the parked cars, gradually making their way towards the jetty. Mrs Sloane stopped and looked back towards Bryant, he noticed her, and fired a shot in her direction. That is Count 46. The bullet didn't strike her.

Bryant then turned and walked back towards the coaches and as he passed Mrs Quin, who was still lying on the ground next to Mr Thompson, disabled from the previous injury which she had suffered, he shot her in the lower back causing fatal injuries.

---and later died from those injuries. I will come back to that later, your Honour, but that is count 42, and the photographs relevant to that count are photographs 30 and 31.

HIS HONOUR: There's just the one count is there in relation to Mrs Quin although there were two separate acts.

MR BUGG: Yes, that's right, yes your Honour.

Photographs 30, 31. At that stage, your Honour, Bryant boarded the Red Coach Line bus, that was next to the Trans-Otway coach which I have previously mentioned. There were no passengers sheltering on the Red Line coach and Bryant fired into the Trans-Otway coach – and you will remember I showed you a photograph of bullet damage to the windows of the Trans-Otway coach. On the coach at the time was Mrs Eva Gaylard, a South African person travelling with Mrs Lockley who I have mentioned previously. Mrs Gaylard was sitting next to Mrs Irene Hutchinson who had managed to make it onto the bus and her husband was out sheltering on the foreshore. The shot fired at Mrs Gaylard struck her in the left arm, past through her arm and entered her chest causing fatal injuries. She died immediately. That is count 47 and the photographs relevant to it are photographs 36 and 37, your Honour.

Mr Gordon Francis and his wife were also on the bus, the Trans-Otway coach. Mr Francis moved down the aisle of the coach in an attempt to close the front door to prevent Bryant from entering the coach. Almost immediately after Mrs Gaylard had been shot, he felt a sharp pain in his left shoulder blade. He also had been shot by Bryant from the coach opposite. Mr Francis sustained a significant injury to the shoulder blade area and was operated on at the Royal Hobart Hospital on four occasions before being transferred to the Ashford

Private Hospital in South Australia for ongoing treatment – that's count 48, your Honour.

After shooting Mr Francis, Bryant walked off the Red Line coach. Mr Neville Quin who had moved away when Bryant first approached his group near the rear of the coach had noticed that his wife was not with the group. He saw Bryant enter the coach, heard the shooting, and when it became quiet he commenced to search for his wife. He found her, she was lying next to Mr Thompson. She had by then sustained the second shot which Bryant had fired at her. She was unconscious and her hands were cold to the touch. Mr Quin tried to help his wife but was concerned that she would die. He had been with her a short time when he realised that a shot had been fired at him. He turned and saw Bryant. He then ran to the front of the coach to shelter from Bryant. Realising that Bryant would probably go the other way to catch up with him he doubled back but then felt the wind of a bullet passing by his head. He ran further around the coach, one more shot was fired at him, before he thought that he was clear of Bryant and could make his escape onto the coach. Unfortunately Bryant saw him enter the coach and followed him. Mr Quin had moved down the coach slightly and had sheltered behind one of the seats. Bryant approached him, stood over him and pointed the rifle at his head. Mr Quin looked up and just as Bryant was about to pull the trigger Bryant said to him "No-one gets away from me". At that moment Mr Quin ducked instinctively, moved his head forward slightly, the gun discharged and the bullet missed Mr Quin's head and struck him in the neck. The shot did not cause any bony injury but it paralysed Mr Quin for a short time. He regained movement in his legs and walked off the coach and back to his wife after about ten minutes.

That's count 49 and I realise your Honour is thinking there are a number of acts involved in that particular matter that the Crown confine this particular incident to the one attempt.

His wife was by this time just conscious and she died with Mr Quin in attendance fifteen minutes later. Mr Quin was evacuated by helicopter to the Royal Hobart Hospital and was treated there and discharged on the fourth of May but has had a number of followup consultations for his injuries.

During Bryant's pursuit of Mr Quin another tourist at the site, James Balasko, an American citizen, observed Bryant and tried to capture him on video film. He clearly placed himself in a position of danger but was able to briefly film Bryant. During this process Bryant obviously observed him, took aim towards him, and fired a shot which missed Mr Balasko but struck a Peugeot sedan, and you can see the location that Mr Balasko was filming from. He was near a camper-van and there was a Peugeot vehicle behind him. That is count number 43 and I have asked your Associate your Honour to remove from the machine the video tape we had this morning and play that portion of the tape.

EXHIBIT P.6 – VIDEO FILM taken by Mr Balasko – TAKEN IN

VIDEO PLAYED TO COURT

MR BUGG QC: That's the attempted murder charge for Mr Balasko, that shot.

VIDEO CONTINUING

MR BUGG QC: The film is now shortly – a section of the film was prepared in slow motion by the police, that now follows, your Honour. It's only a portion of the film that was just played. It was in an attempt to get a clearer view of the accused who can be seen just in front of the farthest bus, at the boot of his car now. Most people described him as wearing that dark jacket and light grey trousers on the day. This film did not come into the possession of the police until September of this year. They were unaware of the existence of it until a second followup interview with Mr Balasko in early August. That's Bryant getting into his car just before he left, his head appears at level with the surfboard on the roof rack. Still photographs were taken from that, your Honour, the smaller the photograph the better the quality of the reproduction. Whilst it's not terribly relevant in light of the plea of guilty it was an additional piece of evidence which came forward but it is direct proof of one of the counts in the indictment. The Peugeot motor vehicle, your Honour, is not one which is in the bundle of photographs but I make available to you from a further set of photographs, photographs number 11.94, 11.95 and 11.96. Your Honour will

see where the bullet hole about where in many cars the radio aerial is fitted just directly above the tyre and the significance of the tear to the fabric of the body of the car is shown in those photographs.

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EXHIBIT P 7 – PHOTOGRAPHS (Loose) – Taken in.

MR BUGG QC: I might also comment, your Honour, that at the start of that film, right at the start of it, someone could be seen on the ground at the rear of one of the coaches. That, in fact, was Miss Brigid Cook – before she moved to the hexagonal guardhouse in the position that she is later shown.

HIS HONOUR: Yes.

MR BUGG QC: Your Honour, throughout the incidents that I described to you today most people who had an opportunity to observe Bryant stated that he appeared calm, unrushed and not showing any signs of emotion, with the exception of Mr Riviere's comments as to his observations of Bryant at the start of the shooting. He clearly intended to cause maximum harm and there was no discrimination as to his choice of victims. It certainly appears that his initial intention may have been to travel to the Isle of the Dead but certainly the killing of Mr and Mrs Martin on that day was the starting point of his murderous behaviour. He clearly purchased the sports bag to conceal the weapon, he calculated its measurement was obviously planning to cause harm, and massive harm, with the firearms he had accumulated.

Your Honour, the FN rifle which I mentioned is here. I would ask that it be marked for identification as well. It is in a damaged condition. It was recovered in that damaged condition from the Seascope and obviously that damage was caused to it – from an examination of it by Sergeant Dutton of the Ballistics Section in Hobart. That damage was caused after it had been fired in the carpark and it has obviously been brought forcefully into contact with some hard object or objects.

FIREARM – FM RIFLE- MFI 'B'

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MR BUGG QC: Your Honour, also at the site on that day the accused had with him this shotgun. It is a semi-automatic Daewoo shotgun with a 15 round magazine fitted to it and from memory there were twelve rounds in the magazine. Later Bryant was to tell the police that the use of this firearm frightened him.

DAEWOO SHOTGUN – MFI 'C'

HIS HONOUR: So that wasn't used at all on this day?

MR BUGG QC: No, it wasn't. It remained in the boot of the Volvo and was retrieved from the boot when it was abandoned by Bryant at the Tollbooth area at the entrance point to the historic site.

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Though the loss of life that he caused was appalling, it could have been worse but as you will hear later he did not until his plea of guilty acknowledge responsibility for what he had done nor has he at this stage given any reason for why he did it. Your Honour, if that previous video tape could now be placed in the machine, or replaced in the machine – at this stage, people had clearly started to accept the warnings which had been given to them and the directions to them to flee, they started to move away from the café and up the hill on Jetty Road, and I will come to that in just a moment, but if this film could be played –

FILM THEN PLAYED

That's Bryant leaving the site, the amount of shelter is therefore apparent. The maker of this film, Mr Ian McLeod, was sheltering with his wife just off Jetty Road when he took this.

That film needn't be played any further, your Honour. Your Honour, I played –

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Two reasons, one, it shows the point at which Bryant departed the scene but it also shows that people were clearly by now accepting the fact that a violent incident had occurred and were seeking refuge wherever possible and there wasn't much of that available. And the totality of the film that I've played today, I think, from a public interest viewpoint is important to be seen, because I think there has been a lot of speculation since this incident as to why someone didn't take some step to either apprehend or bring to an end Bryant's behaviour on that afternoon. But when you look at the time span of what occurred in that café and take a fifteen second gap to achieve the carnage that he did it's quite understandable that there was no violent physical reaction to curtail what he was doing, the time just wasn't there, the opportunity wasn't there, and there was nothing available to those people to defend themselves or take any step to stop him.

Your Honour, perhaps if I pause now and another plan could be put on the wall. I am tendering these as exhibits and I'd be guided by your Honour but there has been inquiries about availability of some of this material. Certainly as far as any plan is concerned I don't see any objection to copy material being available but I'm in your Honour's hands about that.

HIS HONOUR: Well the view that I take Mr Bugg, is that any exhibits tendered to the Court are by the Rules of Court required to be retained in the custody of the Court until any appeal time expires or if it's availed of until the appeal is disposed of. If you have copies of material which you see fit to release to the public that's a matter for your judgment.

MR BUGG QC: Thank you, your Honour.

HIS HONOUR: There will, of course, be a transcript
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of these proceedings available to the public and to the media.

MR BUGG QC: It would certainly make that transcript, if I could come back, more understandable for those who are disseminating today's proceedings to a broader community.

HIS HONOUR: Well it's a matter for your discretion.

MR BUGG QC: Thank you, your Honour. Similar plans are being put up in the other two rooms.

HIS HONOUR: Different considerations may well apply to any record of interview that you wish to show. There are matters of public interest which would require that they normally should not be disclosed lest the disclosure might discourage the use of that in future investigations.

MR BUGG QC: I have a firm view about that, your Honour, and I regard the restriction of the caveat that's imposed upon the extent to which the material will be published by the Judge's rule warning at the beginning as being very limited indeed.

EXHIBIT P8 – CHART- TAKEN IN
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Your Honour, the Plan, P8, which is now being put on the board shows the Port Arthur historic site. If we could start with the Broad Arrow Café location. That is being pointed out. And what is called Jetty Road that I have mentioned on a number of occasions leaves – you leave by the carpark and then drive up Jetty Road –

HIS HONOUR: Just pause for a minute. This apparently is P9. Yes, go on.

MR BUGG QC: Yes, thank you. Mr Perks could once again trace the marker along Jetty Road driving out of the site and that is where Bryant's car was filmed briefly a moment ago on the McLeod video, leaving the site and then travelling towards the Tollbooth which is now being indicated by Mr Perks.

HIS HONOUR: Whereabouts is the old church site?

MR BUGG QC: That's back – further down. Yes.

HIS HONOUR: Yes. Thank you.

MR BUGG QC: Very few people realised where the gunman was at this stage because the echo effect of the gunshots once he got outside into the carpark area. Statements taken by the police from a number of people there indicate that in the initial confusion they didn't know there was one gunman, two three, whether Bryant was working alone and whether he was static or mobile, whether he was operating from a concealed position. Many people fled on foot, as you can see from the commentary made by Mr McLeod. Some of those included Mrs Nanette Mikac and her two daughters, Alannah and Madeline

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--- visited the site on that day whilst Mr Mikac was playing golf on the course at Port Arthur. After firing at Balasko, Bryant then walked to a mini-bus fired past it towards the Commandant's cottage, and then he walked towards his car, appeared to shoot out the rear window of the car and then fired across the water at the ruins again. He then entered his car, started it and reversed it out of the carpark and drove away from the scene. On P.9 the plan there is a green line marked on Jetty Road showing his course of travel out of the site.

Only six cartridges were recovered from the carpark when clearly many more shots than that were fired. Subsequent ballistic examination of the shells recovered from the carpark and the café showed that those shells were from bullets from live rounds fired from both the F.N. and the A.R.15, Colt A.R.15.

Some witnesses say that Bryant on leaving the carpark area was sounding the horn of his car and waving and other say that he was firing from the car. Neither is terribly relevant as far as these charges are concerned but it does not seem likely that he was firing from his car.

Mainland visitors John and Caroline Boskovic and Peter and Pauline Grenfell had travelled to Port Arthur that day. They had a brief luncheon visit to the Broad Arrow Café and sat at the same table as Mr Colyer, Mrs Loughton and her daughter Sarah. After they finished their meal they left and walked towards the toilet block which is near, just on from the Information Centre. So that's the last building really before Jetty Road starts to leave the carpark area. Mrs Boskovic was called from the toilet block by Mrs Grenfell when the shooting started. She came out of the toilet block and screamed in panic but was then told to settle down

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by another person, 'it was only a re-enactment'. All four persons then moved quickly along Jetty Road in the direction of the tollbooth on foot. At one stage they ran beside Mrs Mikac who was carrying her younger child Madeline. Alannah was running beside her mother and to the right of Mr and Mrs Boskovic. Mr and Mrs Grenfell were some short distance behind at this stage. So what you had was a group of five, the three Mikac's and Mr and Mrs Boskovic, and then Mr and Mrs Grenfell behind.

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There were other people in this area at the same time, all trying to make their way out of the site. Mrs Boskovic spoke to Alannah to calm her down, Mrs Mikac then said to her daughter, 'We're safe now Pumpkin.', and the child appeared to relax and moved closer to her mother. At this time the yellow Volvo was being driven up Jetty Road towards the tollbooth. Bryant stopped the vehicle opposite Mrs Mikac and she then started to approach the vehicle. These movements were observed from a couple of locations. And the position of stopping is shown just east on that map, it's probably almost south on that map, of an unsealed road which heads off almost in an easterly direction. So that map is being transversed almost ninety degrees - but that road heading towards the top of the plan which Mr Perks has just indicated becomes relevant in a moment.

It was fairly obvious that Mrs Mikac must have thought that this vehicle would provide some escape from the area. As I say, she approached the vehicle. That was certainly Mr Boskovic's state of mind because he also started to walk towards the vehicle. He was a little further up the hill. At this moment Bryant alighted from the car. It is uncertain as to whether at this very moment he had the rifle in his hand but he had now, by now, changed back from

the FN SLR rifle to the AR15, which he had used in the café. Witnesses observed Bryant to place his left hand on Mrs Mikac's shoulder and people were close enough to hear him tell her to get down on her knees on three occasions. Mr Boskovic, who heard this, said that he was reasonable calm in the way in which he spoke. Mrs Mikac was then heard to say, 'Please don't hurt my babies.' Mr Grenfell then identified Bryant, realised who it was and called out, 'It's him.'

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If you will remember, your Honour, he is now downhill of the car, whereas the Boskovics are uphill of the car.

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Mr Boskovic then observed a gun in Bryant's right hand as did other people who were in the area. Mr Boskovic grabbed his wife's hand and ran further up the hill, turning right up an unsealed roadway away from jetty Road, and that's the unsealed road that Mr Perks is now indicating. As they were moving away they heard a number of gunshots. Mr and Mrs Grenfell ran back down the road towards the historic site and hid behind a tree. Another couple in the area noticed Alannah the elder of the two children run to hide behind a tree off the roadside. One of these people, Mr Dutton, looked over his shoulder and saw Bryant point the rifle at Mrs Mikac and fire once. She fell to the ground. He turned, saw his wife, that is, Mr Dutton did, and tried to move away from the scene. He heard another shot, took hold of his wife's hand and they hurried onto a dirt road, which was the same dirt road that Mr and Mrs Boskovic had just moved on to. He heard another shot and then he and his wife sheltered behind a large tree lying on the ground.

The Crown case is that Bryant shot Mrs Mikac in the left side of the head using the AR15 rifle. Death was immediate. Almost immediately after this he has fired at Madeline, he fired two shots at the child. The first shot struck the child in the right shoulder causing a non-fatal wound and the second shot to the chest and abdomen of the child caused fatal massive internal injuries. The order of the shots cannot be determined but the shoulder injury appeared as from the gunpowder stippling to have been a closer range shot whereas there is no stippling present with the fatal injury to the lower chest and abdomen.

Bryant then turned his attention on Alannah – and, your Honour, I hasten at this stage to seek leave to amend the indictment. I notice that the child's name is

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Spelt without a concluding 'h' in the count in the indictment and if I could just take your Honour to that, it is –

HIS HONOUR: Count 52 is it?

MR BUGG QC: It's count 52, yes. I would seek leave to amend to record that correctly.

HIS HONOUR: Granted

MR BUGG QC: It appears, your Honour, that he fired two shots at the child, she was sheltering behind a tree off to the side of the road at a distance of about 5.5 metres and those first two shots were fired from somewhere near his car. He then moved to the tree and shot her at near contact point with the muzzle almost pressed against the right side of the child's neck.

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The examination of the body of the deceased child by both Forensic Pathologists and ballistics experts showed searing and powder markings consistent with a near contact injury, and other patterned abraded injury, approximately six centimetres from the gunshot wound, and that suggested contact from the flash suppressor around the barrel of the gun, because there were two concentric circles in that abraded injury, the outer one having a perimeter of one point five centimetres in diameter, the inner circle one centimetre in diameter, making this abraded injury on the neck of the child consistent with the flash suppressor on the barrel of the gun having been pressed against the child's neck, prior to the firing of the gun. In other words the gun was pushed into the child's neck and then fired.

Six point two-two-three cartridge cases were recovered from the scene, five near the car on the roadside and one near the body of the child Alannah behind a tree. Your Honour those three shootings make up counts 50, 51 and 52 of the indictment and I take you to photographs 18 through to 26.

The tree behind which Alannah was shot is the – you can only see in photograph 18 one – a part of a tree at the far left-hand side of that photograph, it's the next tree to the right of that your Honour. There is a better photograph of that in terms of its overall coverage of the scene and I will retrieve that later, I won't take your Honour through that at the moment.

Bryant then re-entered his vehicle and drove towards the tollbooth. Mr Perks will continue the account of Bryant's activities from this point onwards.

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I have given some information to your Honour about the firearms used by Bryant and the assessment of the matter by the ballistics experts within Tasmania Police Force.

Your Honour, I will resume the state of the facts when it comes to the presentation of victim impact material and a background outline on Martin Bryant. If your Honour pleases.

HIS HONOUR: Mr Perks?

MR. PERKS: Your Honour, just prior to the murders of Mrs Mikac and her daughters a New Zealand couple, Mr and Mrs Buckley, drove into the historic site in a red Holden Commodore. After paying the entry fee at the tollbooth they proceeded about a hundred metres down the entrance road following behind a gold BMW sedan when they were warned by an elderly man on the roadway not to go any further as someone was firing shots. Mr Buckley reversed his vehicle a short distance before turning and driving back up to the tollbooth, parking just before it on the left hand verge. And the photograph 162 shows Mr Buckley's Commodore in the position in which he'd parked it.

Your Honour, the BMW completed a similar manoeuvre, also parking near the tollbooth, just past it, in such a position as to partially block the entry lane to the site. This vehicle was owned by Mr Ken Nixon and his wife Mary Rose. The Nixon's had had friends staying with them for a couple of days, Mr Robert Salzmänn and his wife Helene from Switzerland, and Mr Jim Pollard, and that morning Mrs Nixon, together with the Salzmänn and Mr Pollard, had set off to visit Richmond and Port Arthur. The BUCKLEYS left their vehicle and Mr Buckley spoke to Mrs Kingston, the tollbooth attendant, to inquire as to what was going on. As he was standing beside the tollbooth Mr Buckley looked down the road

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And observed Bryant standing beside the open driver's door of his yellow Volvo, raise a rifle to his shoulder and shoot Mrs Mikac and immediately thereafter her youngest daughter.

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The BUCKLEYS then started running up the road towards the site turnoff where they were picked up by Mr Keith Edward and his wife, June, and driven to the Port Arthur Service Station, just to the north of the entrance to the site. Your Honour, after slaughtering the Mikacs Bryant re-entered his vehicle and drove up the entrance road, pulling up just past the tollbooth on the left-hand verge, approximately level with or slightly behind the Nixon BMW. Photograph number 5 shows the position of the Volvo. A few seconds later Miss Debra Rabe turned left from the Arthur Highway into the site entrance and drove towards the tollbooth to be confronted by the gold BMW blocking her path. Miss Rabe and her passengers, Mrs Frida Cheek and son, Nicholas, observed a woman in the front passenger seat of the BMW we believe to have been Mrs Nixon, motioning to them with her hands as if to say, 'go back'. At the same time they observed two men, Bryant and Mr Salzmänn apparently arguing at the driver's side door of the Volvo. It is the Crown case that Bryant then quickly moved a step or two to the rear of the Volvo and removed the .308 calibre SLR rifle. A few more words were exchanged and Bryant raised the rifle and shot Mr Salzmänn at point blank range through the neck, a lethal injury, causing Mr Salzmänn to fall straight backwards to the roadway

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Mr Salzmänn was wearing a blue jumper, and I refer your Honour to photograph number 15. Immediately after the murder of Mr. Salzmänn Mr. Pollard was observed by Nicholas Cheok to get out of the driver's seat of the BMW and walk around the front of the vehicles towards Bryant. Bryant thereupon raised the rifle to his shoulder and shot Mr. Pollard at close range through the right chest causing a lethal injury. And I refer your Honour to photograph number 12.

By this time another car had pulled up behind Miss Rhodes' vehicle, the occupants of this car having been alerted to the horror of the scene before them by the urgent signalling of Mrs. Cheok, quickly reversed back towards the entrance allowing Miss Rabe to do likewise. While Miss Rabe was in the process of reversing her vehicle Bryant turned his attention to the two remaining occupants of the BMW. The exact sequence of events in the next few seconds is not entirely clear but it seems probable that Bryant went to the rear driver's side door of the BMW and pulled Mrs. Salzmänn from the vehicle shooting her as he did so. Mrs. Salzmänn sustained a fatal gunshot injury, the bullet entering her neck and exiting through her left upper back. And I refer your Honour to photograph number 6.

The Crown case is that Bryant then walked to the front passenger side of the BMW where Mrs. Nixon was seated and shot her twice before dragging her body clear of the vehicle onto the roadway. Mrs. Nixon sustained two gunshot wounds, one entering her right shoulder and perforating her neck and cervical spine, the other entering her left shoulder and perforated the left chest cavity. Both of these wounds were lethal injuries. I refer your Honour to photograph number 9.

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Immediately following the murder of Mrs. Nixon and dragging her body from the car Bryant commenced to transfer a number of items from the Volvo to the BMW. These items included the Colt AR15 rifle, a quantity of ammunition, two sets of Smith and Wesson handcuffs and most probably at least one container of petrol.

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At about this time Mr. Graham Sutherland turned left from the Arthur Highway into the Historic Site entrance road. He was driving a maroon Magna sedan. Seated beside him was his son, Thomas, his wife, Stephanie, another son, Stuart being in the rear seats. When their car was a hundred to a hundred and fifty metres away from the Tollbooth they noticed the BMW and the Volvo and three bodies lying on the roadway. Mr. Sutherland recalls Thomas yelling out, 'There's someone running back to the other car.' He immediately put the car in reverse and accelerated rapidly as two gunshots rang out and Mr Sutherland was sprayed with small particles of glass. It is the Crown case that Bryant fired two shots from the .308 calibre FN rifle at the reversing Magna fully intending to kill the driver of that vehicle. This conduct constitutes Counts 57 and 58 on the indictment. The Magna was struck by two bullets, the first striking the windscreen on the driver's side, the second penetrating the driver's side front door just to the left and above the door handle. And I would refer your Honour to photographs of that vehicle, numbers 542, 538 and 539.

HIS HONOUR: What is the first one? 538, 539 and what was the first one?

MR PERKS: 542, your Honour.

HIS HONOUR: Yes.

MR PERKS: 542 shows a close-up of the first shot that struck the windscreen. Fortunately, your Honour, none of the occupants of the Magna were physically injured. Having completed the transfer of material from his Volvo to the BMW Bryant set off in that vehicle on his continuing trail of devastation and destruction. He left behind in the Volvo a number of items of some significance including the 12 gauge Daewoo semi-automatic shotgun that has been marked for identification. That was fitted with a magazine containing nine cartridges.

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Also left in the car were two magazines for the .308 FN rifle, one empty and one containing seventeen live rounds.

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One magazine for the colt AR15 rifle containing twelve live rounds and a cardboard box containing four hundred and thirty nine, point three o eight calibre cartridges. There was a twenty five litre gasoline container containing

twenty litres of petrol left in the Volvo together with a second ten litre drum containing seven litres of petrol. There were three packets of Little Lucifer fire starters and a grey video camera bag which contained, amongst other things, six keys bearing tags marked Seascope, as Mr Bugg has already mentioned.

Photograph 140 shows the smaller container of petrol in the rear seat.

150 shows the Daewoo shotgun in the boot of the car, together with one of the magazines.

Photograph 151 is another view of the boot of the car which shows a home made target made of cardboard.

156 shows the front passenger's seat of the Volvo and the large container of petrol and alongside that, your Honour will see one of the packets of Little Lucifer fire starters and another part partly obscured underneath the glovebox area.

Photograph 157 shows a loaded magazine in the glovebox.

736 is another view of the boot after the car had been removed to Police Headquarters. This time the magazine from the shotgun had been removed.

740 and 741 show the target that was removed from the boot. This target contained three bullet holes.

742 is another view of the petrol container in the rear of the car. Alongside that is a cardboard box.

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743 shows the contents of the cardboard box, as I've indicated, 439 live three 0 eight rounds.

751 shows three packets of Little Lucifer fire starters after the removal of the petrol container.

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755 shows the grey camera bag, 756 the contents of that bag including the six 'Seascope' keys and 757 a closer view of those keys.

Your Honour, in all eleven .308 calibre fired cartridge cases were subsequently recovered from the vicinity of the tollbooth. All had been discharged in the FN self-loading rifle. As I previously indicated Mr. Keith Edwards and his wife after picking up the Buckley's had driven to the Port Arthur service station just north of the entrance road to the historic site. Once there, Mr Edwards stood in the roadway in an effort to flag down approaching motorists to prevent them entering the site. Photograph 1050 is a view of the entrance to the historic site taken from the forecourt of the service station.

HIS HONOUR: What was that number again?

MR PERKS: One thousand and fifty. It gives your Honour an idea of the proximity of the entrance road to the service station, certainly not a long distance. Miss Rabe, after witnessing the carnage at the tollbooth had driven to the photo shop almost directly opposite the entrance road and that photo shop is also shown in that photograph I have just referred your Honour to, 1050, righthand side. She asked the proprietors, Mr. Laycock and Mr. Kateros to call the police, she then drove across to the service station to warn the people there. Mr Sutherland, after being shot at, also stopped briefly at the service station to warn the people before continuing north along the Arthur Highway. Mrs Cheok persuaded Miss Rabe to leave also and as she drove across the forecourt preparatory to driving on to the Arthur Highway, she observed a gold BMW approaching from the Port Arthur entrance road and then veer across to the wrong side of the roadway blocking the exit of a white Corolla hatchback.

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I refer your Honour to photograph 395 which is an aerial photograph of the service station and it shows the white Corolla at the northern exit of the service station. Your Honour, the occupants of this vehicle were a young couple from interstate, Mr. Glen Pears, originally from Tasmania, and Miss Zoë Hall. Although there are some differences in the description of events as recounted by various witnesses, it seems almost certain that Mr. Pears was driving

the Corolla and Miss Hall beside him in the front passenger seat. Immediately after bringing the BMW to a halt Bryant got out of the vehicle armed with the FN rifle and went straight to the passenger side front door of the Corolla and it appeared to one witness that he commenced to try and pull or wrestle Miss Hall from the front seat. She was screaming a very sharp, loud, high-pitched scream. At this point it is the Crown case that Mr. Pears got out of the Corolla and moved around to the passenger side where he appeared to be attempting to placate Bryant. Bryant responded by raising the rifle to Mr Pears chest and then pushing him and directing him back towards the rear of the BMW, the boot of which it seems was already open. Mr. Pears was then forced to climb into the boot and kneel inside and Bryant then shut the boot. Bryant then walked from the rear of the BMW back towards the passenger side front door of the Corolla. As he approached it seems that Miss Hall moved across from her original position in the front passenger seat into the driver's seat. When he reached the passenger side front door Bryant calmly and deliberately raised the rifle to his hip and fired three shots in rapid succession, smashing through the window into Miss Hall. She received an injury to her neck, an injury which passed through her left forearm through her chest and into the right arm, and a wound through her back. The first two of these wounds were lethal injuries and according to the pathologist the third was most probably so.

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Photographs 1 and 2 are photographs of the Corolla and Miss Hall. After murdering Miss Hall, Bryant was observed by Mr Kateros at the photo shop to run back to the BMW and then drive off at high speed in the direction of Seascap. Three .308 calibre fired cartridge cases were subsequently recovered from the vicinity of the white corolla. All had been discharges from the same firearm used by Bryant at the tollbooth, the FN self-loading rifle.

Bryant drove the BMW at high speed north along the highway pulling into the Seascap driveway, or just off the roadway adjacent to that driveway. Photographs 794 and 801 show the entrance to the Seascap looking from a northerly direction and a southerly direction. As Bryant was approaching the Seascap driveway Mr. John Rooke was approaching in the opposite direction at slow speed in his Datsun sedan towing a loaded trailer. Mr Rooke observed the BMW cut straight in front of him and stop in the Seascap driveway. He then saw a male person, who the Crown say of course was Martin Bryant, get straight out of the BMW and point a rifle directly at his approaching car, and from a distance of about twenty feet fired two shots in quick succession. Mr Rooke thought that the shots must have been blanks as his vehicles was not struck but as he drove past Bryant he heard two further shots and saw in the rear vision mirror the windows of a red Falcon, following some distance behind, get blown out.

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The Crown asserts that when Bryant discharged the two shots at Mr Rooke's approaching car he intended to kill the driver. This conduct constitutes count 60 on the indictment, charge of attempted murder.

It seems that Mr Rooke had failed to see another vehicle following directly behind his vehicle and between it and the red Falcon whose windows he'd seen shattered by gunshots. This other vehicle was a Holden Frontiera four-wheel drive, an aqua coloured vehicle. It was driven by a young woman from Melbourne, Miss Linda White. Sitting beside her was her boyfriend, now fiancé, Michael Wanders. As their vehicle approached the Seascap driveway Miss White, whose attention had initially been directed at the beauty of the Seascap cottages and their tranquil setting noticed the BMW on the left side of the road and standing by it a young blond haired male. As she drove closer she noticed he had a long gun by his side. She thought at the time that he must have been waiting for them to pass so that he could shoot rabbits or something. She slowed down further. When only a matter of a few metres separated them Bryant raised the firearm, pointed it directly at Miss White and fired it, attempting to kill her. This initial shot struck the bonnet of the Frontiera just below the windscreen on the driver's side, part of the projectile fragmenting and smashing into the edge of the windscreen at head level and causing glass to strike Miss White's face. As the Frontiera drew level with Bryant he fired a second shot followed by a third and possibly a fourth in quick succession, shattering the front passenger and driver's side windows. One of the projectiles slammed into Miss White's right forearm, virtually blowing it away and causing horrific injury. The Crown case is that when Bryant discharged the second and subsequent shot or shots he intended to kill Miss White's front seat passenger Michael Wanders.

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This conduct is the subject of count 62 the charge of attempting to murder Mr. Wanders and count 63 causing grievous bodily harm to Miss White. Remarkably Mr Wanders was not physically injured.

After passing Bryant's position the Frontiera continued down the hill and just around the bend from the Seascapes entrance before rolling to a stop. Miss White at that time believed that this was because she simply couldn't drive anymore due to her grievously injured arm. She and Mr Wanders both got out and swapped seats by running around the front of the vehicle. Once in the driver's seat Mr Wanders made several desperate but unsuccessful attempts to restart it. A later examination of the Frontiera revealed the fact that the shot that had penetrated the bonnet had also severed the throttle cable. I refer your Honour to a series of photographs commencing at 291. 291 is a view taken from just south of the Seascapes driveway showing the position in which the Frontiera finished. 292 is a closer view of the vehicle. 297 shows the vehicle from a frontal view. 298 shows the bullet hole in the bonnet. Photograph 300 shows the damage to the windscreen caused by the first bullet fired. Photograph 301 and 302 and 308 show the front doors of the Holden Frontiera and photograph 335 shows the damage to the throttle cable caused by the first projectile.

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Your Honour, at about the time Mr Wanders was trying to re-start the Frontiera Mr. Doug Horne was approaching Seascapes driving a maroon Ford Falcon sedan. Also present in the vehicle was Mr Neville Shilkin in the front passenger seat. His wife, Helen, was behind him in the rear seat, with Mrs. Faye Horne beside her. After first noticing the pink buildings of Seascapes Mr Horne observed the BMW parked in or near the driveway as did the others in the Falcon. As the Falcon drew nearer Mr Horne saw Bryant standing at what he thought was the front of the vehicle. Mr Shilkin yelled out, 'He's got a gun.', and at the same instant, and when the Falcon was but a few metres from him, Bryant raised the firearm to his shoulder and fired directly at Mr Horne. The bullet penetrated the windscreen and fragmented, shrapnel peppering Mr Horne causing multiple wounds to the right side of his chest and his right shoulder, arm, elbow and forearm. Photograph 505 shows the bullet hole at head level on the windscreen of the Falcon. 517 and 522 are other views of that vehicle. The Crown asserts that when Martin Bryant fired he fired directly at Mr Horne intending to kill him. This conduct constitutes Count 65 on the indictment, a charge of attempted murder.

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Fortuitously neither Mrs Horne nor the Shilkins sustained injury. Mr Horne drove a short distance, stopping behind the Holden Frontiera and then in a state of shock got out of the vehicle briefly. Miss White, having noticed the Hornes' Falcon, ran towards it and tried to get in via the front passenger door. Meanwhile Mr Horne, almost certainly not comprehending the situation or appreciating the desperate plight of Miss White, got back behind the wheel of the Falcon and drove forward a short distance around the Frontiera and stopped again just ahead of it after being told by his wife that he just couldn't drive. Mr Horne and Mr Shilkin then both got out of the vehicle and swapped positions. Miss White and Mr Wanders ran to the Falcon, Miss White getting in to the rear seat and Mr Wanders the front on Mr Horne's knee. Mr Shilkin then drove the group to the Fox and Hounds and ultimate safety.

Your Honour, travelling a short distance behind Mr Horne's vehicle as it approached Seascapes was another red Ford sedan being driven by Mr Simon Williams, a Canadian Embassy official stationed in Canberra, who was on holiday in the State with his wife Susan.

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As they rounded the corner and the "Seascapes" cottages came into view, Mr Williams was struck by the sight of a white or greyish coloured car in the righthand lane facing south by reversing at up the road at some speed. This was in fact a Magna sedan being driven by Mrs Anne Wardle, who I will come to shortly. Mr Williams then noticed Bryant on the side of the road in the vicinity of the "Seascapes" driveway and almost immediately thereafter he heard the sound of a gunshot. Having heard this and seen the Magna reversing, Mr Williams accelerated but as he drew level with Bryant there was a second gunshot, the bullet shattering the front passenger and driver's side windows. Mrs Williams was struck by the fragmenting projectile which caused an horrific injury to her left hand completely amputating her little finger and severely damaging the remaining fingers of that hand. She also sustained a small laceration to the left side of her forehead. Mr Williams was also struck by flying shrapnel, sustaining a serious fracture and bone loss to his left hand.

The Crown asserts that Bryant fired this shot at Mrs Williams intending to kill her. This conduct is the subject of count 66, attempting to murder Mrs Carolyn Susan Williams and count 67, causing grievous bodily harm to Simon Roger Williams.

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After being shot Mr Williams continued to drive south at speed, overtaking Mr Horne's stationary Falcon, and thence to the haven of the Fox and Hounds. Photographs 261, 262 and 273 are views of Mr Williams' vehicle.

Your Honour as I previously mentioned Mrs Anne Wardle was driving the Magna sedan that Mr Williams had observed reversing at speed in the wrong lane as he approached Seascope. Also present in Mrs Wardle's vehicle were her friends Sylvia Riley, Mary Warburton and Joyce Maloney. As Mrs Wardle rounded the corner and Seascope came into view she noticed Bryant standing near the BMW on the side of the roadway. She noticed too almost immediately that he had a rifle that he was holding to his shoulder apparently aiming at the vehicle in front of hers. This vehicle no doubt being the Horne's. On seeing what was occurring ahead Mrs Wardle promptly stopped her car and then commenced reversing back up the roadway, changing over to the wrong lane so as to avoid a potential accident with any vehicle approaching, such as for example the William's car. As she was reversing she heard a shot fired and at the same time realised her car had been struck. Mrs Wardle continued to reverse until she had rounded the corner and was out of view. She then drove a short distance in a northerly direction before stopping the vehicle and flagging down all cars that approached to warn them against proceeding further.

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While Mrs Wardle was reversing the other occupants of her car watched Bryant firing at Mr Williams' vehicle from point blank range and glass shattering and spraying from its right hand side. Your Honour, the driver's side lower corner of Mrs Wardle's Magna was struck by the bullet fired by Bryant and photographs of that vehicle are numbered 553 and 554.

The Crown asserts that when Bryant fired at this vehicle he did so with the intention of applying force to its occupants. This conduct constitutes count 64 on the indictment, the charge of aggravated assault. Fortunately none of the occupants of Mrs Wardle's Magna sustained injury.

Your Honour, after firing the last two shots which struck Mr Williams' Ford and the reversing Magna containing Mrs Wardle and her companions, Bryant returned to the BMW and drove down the Seascope driveway and across a grassed area bordering the southernmost cottage, pulling up alongside a line of poplar trees. There's an aerial photograph showing the position of the BMW in relation to Seascope numbered 401.

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I just pause to observe that subsequently nine fired .308 calibre cartridge cases were recovered from the vicinity of the Seascope driveway, all had been fired in the FN self-loading rifle.

Your Honour, after bringing the BMW to a halt Bryant got out of the vehicle, removed Mr Pears from the boot, and took him inside the main Seascope cottage, the residence of Mr and Mrs Martin. Once inside, using the two sets of handcuffs he had brought with him, he handcuffed Mr Pears' wrists behind his back. The second pair of handcuffs were linked to the handcuff on the left wrist with the free cuff being closed and secured around move immovable object within the house. After securing Mr Pears inside the house it is the Crown case that Bryant returned to the BMW, splashed petrol liberally over the interior of the vehicle and set it alight. He had removed from the vehicle both the Colt AR15 and FN rifles together with ammunition for each weapon.

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At about 1.30 p.m. the Nubeena Police Constable, Paul Highland, who at that time was in the Saltwater River area in company with Constable Garry Whittle, received a radio message to attend the Port Arthur site. Constables Highland and Whittle, travelling in separate vehicles, stopped briefly at the Nubeena Police Station. They received a further radio message to be on the lookout for a yellow Volvo with a surfboard on roof racks and decided to head for Port Arthur in different directions. Constable Highland travelled to the Taranna turnoff on the Arthur Highway. En route, he received a further message to be on the lookout for a gold BMW sedan. On reaching the turnoff, he received a further message that people had been shot and were at the Fox and Hounds Hotel. Constable Highland then drove south on the Arthur Highway to the Fox and Hounds, at considerable speed, observing Linda White's abandoned Frontiera on the roadway about a hundred metres south of the "Seascope" entrance.

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On his arrival at the Fox and Hounds he spoke briefly with Mr Williams and others and then drove back in the direction of Seascope. About five hundred metres prior to Seascope he slowed when he noticed Constable Whittle's vehicle behind and they then proceeded slowly in convoy to the Seascope entrance.

Both police officers then observed the BMW on the grassed area beside the Seascope buildings. By this time it was on fire and there was heavy black smoke billowing from the vehicle. The rear half of the vehicle had not caught fire at this stage. The time was now approximately 2 p.m.

Constable Hyland decided to drive further north up the road to stop any traffic from coming down. As he did so he caught a brief glimpse of a figure running past one of the cottages towards the entrance of the main residence of Seascope. Constable Hyland stopped his vehicle across the roadway about four hundred metres north of Seascope and remained in this position for some time.

Constable Whittle meanwhile had positioned his vehicle at forty-five degrees across the highway outside the Seascope entrance to block northbound traffic.

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After hearing a loud explosion coming from the direction of the burning BMW Constable Whittle took cover at the rear of his Police vehicle. The particular vehicle and the position it was parked is shown in photograph 343 and 336. 343 is a close view of Constable Whittle's vehicle.

A short time later your Honour, Constable Pat Allen reversed his Police vehicle from the direction of Port Arthur towards Constable Whittle's vehicle. As he did so Constable Whittle heard three very loud shots from the direction of Seascope and bullets passing over Constable Allen's vehicle hitting bush or shrubbery to his right. Constable Whittle moved from his position to a culvert at the rear of his vehicle and was then joined in that position by Constable Allen.

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- the culvert is shown at Photograph number 380.

Your Honour, those initial shots fired in the direction of Constables Whittle and Allen constituted Counts 69 and 70 on the indictment, the charges of aggravated assault. Constables Whittle and Allen remained in the culvert until approximately nine o'clock that night when they were joined by two members of the Special Operations Group and were subsequently evacuated from that point at about 11.00 p.m. by crawling along the ditch, a distance of about two hundred metres. During their time in the culvert a large number of shots were fired in their general direction from several different weapons. As well as his own firearms Bryant now had access to a considerable number of firearms owned by members of the Martin family. And a bullet that struck Constable Whittle's vehicle, a close-up view of that at Photograph 352, was later determined by ballistics evidence to have been fired from an SKK semi-automatic rifle.

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MR PERKS: Your Honour, I'm just about to go on to a new area, it may be a convenient time.

HIS HONOUR: Yes, very well.

THE COURT THEN ADJOURNED UNTIL 10.00 A.M. ON WEDNESDAY, THE 20TH DAY OF NOVEMBER, 1996

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THE COURT RESUMED AT 10.00 A.M. ON WEDNESDAY, THE 20TH DAY OF NOVEMBER, 1996

THE QUEEN v. MARTIN BRYANT
(Part heard)

HIS HONOUR: Mr Bugg, in the light of your recitation of the facts to me yesterday I have some concerns about the form of this indictment, having regard to section 11 of the Criminal Code which provides that persons are not to be punished twice for the same act, same unlawful act, not the same offence but the same unlawful act. At page 86 of the transcript you told me that the shot that struck Mr. Bennet, who is subject of count 9 in the Indictment, exited to cause the death of Mr. Sharpe, who is the subject of count 10 in the Indictment. Now it may be that that problem would be resolved by an amendment to count 9 in the indictment to allege the murder of Mr. Bennet and Mr. Sharpe and count 10 would simply then be squashed.

The same problem, however, arises in relation to a number of the wounding charges which I was told were really the by-products of fatal shots hitting intermediate objects – well not intermediate objects, they were –

MR. BUGG QC: Shrapnel fragmentation.

HIS HONOUR: Shrapnel fragments from a lethal wound. So once again, you see, you have a single unlawful act which had two consequences, one a fatal consequence, and the commission accordingly of the crime of murder, but you have charged in addition a further consequence in relation to other persons from that single unlawful act.

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HIS HONOUR: It would seem to me as presently advised that that offends section 11 of The Code and without of course minimizing the seriousness of conduct which causes a wound, in addition to any other fatal consequences, it may well be that this indictment from a technical point of view would be erroneous if it were allowed to remain in that form and indeed the whole sentencing process might accordingly be jeopardised. I don't want you to respond immediately, I simply draw it to your attention and give it some thought and perhaps we could discuss it before the conclusion of the matter.

MR. BUGG: Thank you, your Honour.

HIS HONOUR: Yes, Mr Perks?

MR. PERKS: May it please your Honour.

Your Honour, at the close of the afternoon session yesterday I dealt with the shots fired in the direction of Constables Allen and Whittle. This occurred shortly after their arrival at "Seascope" just after 2 p.m.

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At about 2.10 p.m. that day Alison Smith, an ABC reporter left Hobart headed towards Port Arthur with a camera crew after hearing of the shooting incident. While travelling south Miss Smith made a series of telephone calls on her mobile 'phone to various businesses in the Port Arthur area to try and glean some further information. Between 2.30 and 2.40 p.m. she telephoned the Seascope number and Miss Smith gives this account of what occurred: A male person answered the telephone and I said, 'Hullo, hullo.' . The male person was laughing hysterically and I again said 'Hullo' and he then said, 'Hullo.' I then asked this person if I had the right number for Seascope and he laughed again and said, 'Yes.' I said, 'Who am I talking to?', he laughed again and said, 'Well, you can call me Jamie.' I then said, 'It's the ABC calling. What's happening?'. He then replied, 'What's happening? What's happening is I'm having lots of fun.' There was a pause and he said, 'But I really need a shower.', another pause, 'If you try to call me again I'll shoot the hostage.'

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Miss Smith could hear breathing into the 'phone for a few seconds and then it cut out. I mentioned yesterday your Honour, Constable Paul Hyland, the Nubeena Police Constable, who arrived at Seascope at approximately 2. p.m. to see the BMW ablaze. At 3.08 p.m. Merrin Craig, the girlfriend of Constable Paul Hyland, answered the telephone at the Nubeena Police Station residence. The caller was a male person who spoke in a very calm voice. Immediately after the call Miss Craig made notes of the conversation that occurred. The first words spoken by the male caller were "Am I speaking with the policeman's - ?" Miss Craig could not make out what was then said because the dog was barking. She told the caller to "Excuse me a minute while I quieten the dog." After she had done that she heard the male caller say "Is that your dogs barking?" and she replied, "Yes." The male caller then said, "Do you know where your husband is?" Miss Craig then said, "Who is this?" The male person replied, "Jamie, you can just call me Jamie." There was a pause, he then said, "Do you know if he is okay?" Another pause, and then the male caller said, "I know." When the caller said that Miss Craig expected the male person to say "Do you wish to speak to him?"

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- in other words, Constable Hyland. And she believed at that moment that her boyfriend, Paul, had been taken hostage by the male person. She was aware of what had been happening at Port Arthur and when the male caller said, "I know where Mr Hyland is." She felt like she'd collapse on the floor. She just stood there for a few seconds trying to remain calm without saying anything. The male then spoke again in a mocking tone, a different

tone, saying, “Playing with yourself, are we?” Miss Craig held on to the ‘phone for a few seconds and then it was hung up. It is the Crown case that the person who made the telephone call to Merrin Craig was the accused, Martin Bryant.

Your Honour, as the scale of the massacre became known a massive police and emergency services operation was swung into action. A police forward command post was established at the Tasmanian Devil Park at Taranna and members of the Tasmanian Special Operations Group were deployed to various suitable observation points around the Seascope property.

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They were joined later that night by members of the Victoria Police Special Operations Group.

During the afternoon of the 28th of April police managed to contact Bryant by telephone and by about 4.30 p.m. Telstra had established a secure telephone line permitting a member of the Police Hostage Negotiation Team to communicate directly by telephone with Bryant. From that time until about 9.30 p.m. when the telephone link failed, due probably to Bryant leaving the Seascope portable telephone off its charging cradle, the police hostage negotiator made contact with Bryant on seven separate occasions. A transcript of the conversations which were recorded is contained for your Honour’s reference at pages 43 to 99 of volume 2 of the Crown papers.

During the course of these conversations with the hostage negotiator Bryant identified himself as Jamie. Throughout he maintained the pretence that the hostages were alive, claiming that he’d cooked them something to eat, made cups of tea and given them orange juice.

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As has been indicated it is the Crown case that Bryant had murdered Mr and Mrs Martin during the morning of the 28th of April prior to the killings at the Broad Arrow Café. It is highly likely that Bryant murdered Mr Pears within a relatively short time of removing him from the BMW to the Seascope dwelling. However, the contents of the hostage negotiation tapes reveal that before killing him Bryant had obviously questioned Mr Pears and obtained some personal details from him, including the fact that he and Miss Hall were lawyers, that they were from Melbourne, but that Mr Pears’ family lived in Tasmania.

Throughout the conversations between the hostage negotiator and Bryant---

HIS HONOUR: Well what makes it probable that he was killed at that stage Mr Perks, is there forensic evidence to that effect or pathological evidence?

MR PERKS: No.

HIS HONOUR: Or is it simply an estimate by the Crown?

MR PERKS: During the course of the negotiations there is simply no other evidence apart from Bryant’s word that any of the hostages were alive, no other movement could be detected by Special Operations Group officers.

HIS HONOUR: Well it appears that Mr Pears was manacled and with the second set of handcuffs he was tethered to some immovable object. I don’t know there is any significance one way or the other but I must say from what you tell me it doesn’t seem to me that there is any probability one way or the other.

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---wish to urge it upon me but --

MR PERKS: Well, we can’t -- really, only the accused Bryant knows when Mr Pears was murdered. Your Honour, throughout the conversations between the police negotiator and Bryant he consistently demanded to be provided with a helicopter to take him to Hobart airport and then to be flown to Adelaide, threatening to kill his hostages if these demands were not complied with. He said that when the helicopter arrived he intended to take Mrs Martin with him as a hostage and release the others. The “Seascope” siege continued throughout the night and apart from a lull between the hours of 4 a.m. and 6 a.m. on the 29th April, Bryant continued to discharge firearms in various

directions from the upper floor of the residence. Several different weapons were used and in excess of one hundred and fifty shots were fired. At no stage did any of the SOG police return fire because of the obvious risk to the hostages even though as I have said there was never at any stage any evidence apart from Bryant's comments to the hostage negotiator that anyone was alive in "Seascope" apart from Bryant himself.

At about 7.45 a.m. on the 29th April, smoke was observed to be coming from an upper storey window of the "Seascope" cottage on the side of the building facing Long bay. Within minutes large flames were fairly visible in the window and ammunition could be heard exploding as the fire progressed. By 7.55 a.m. the fire had taken hold at ground level. At that time an SOG officer, position at approximately one hundred and seventy metres to the west of the "Seascope" cottage observed movement at the ground floor door and at about 8 a.m. several more shots were heard. By 8.15 a.m. the majority of the cottage was ablaze apart from the northern side and the south-west corner at ground level.

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At about 8.25 a.m. Bryant, wearing dark clothing which appeared to be on fire in the back region, was seen moving away from the south-west corner of the cottage. He disappeared from sight of the observing SOG officers for a short time before re-appearing, naked and staggering for a little way before dropping to his knees. The police rapidly moved in and placed Bryant under arrest and he and two escorting police officers were subsequently conveyed to the Royal Hobart Hospital by ambulance.

The fire at Seascope continued to blaze out of control for some considerable time, fire services were unable to approach because of the continuing danger created by exploding ammunition. However, on the afternoon of the 29th of April a meticulous search of the burnt cottage and surrounding outbuildings was commenced resulting in the location within the ruins of the bodies of Mr and Mrs Martin and Mr Pears. All three bodies were burnt beyond recognition, identification was confirmed by means of dental records and DNA analysis.

In the case of Mr David Martin an examination of the body in situ and at the subsequent post mortem revealed a cloth gag tied around the neck and covering the mouth and chin. There was appeared to be a gunshot entry wound just beneath the right ear, the wound track running downwards through the neck muscles into the chest. A second probable gunshot exit wound was located 1.5 centimetres beneath the base of the neck. No corresponding entry wound could be located due to severe tissue destruction caused by the fire. Examination of the trachea showed no evidence of carbon deposition and toxicology results confirmed a conclusion that Mr Martin had died as a result of two gunshot wounds inflicted by Bryant before the fire started. I refer your Honour to Photographs number 983 and 997.

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Sorry, 983 and 997.

Your Honour, it is likely that Bryant also stabbed Mr Martin. The results of DNA profiling carried out on a blood stain on the knife recovered from the prince bag Bryant left behind at the Broad Arrow Café indicates a high probability that Mr Martin or Mr Martin's blood was a contributor to the stain.

In the case of Mrs Noelene Martin her body had been severely incinerated by the fire. The autopsy revealed five lacerations over the back of the head and an associated depressed skull fracture, indicating blunt force trauma of considerable force to the back of the head. A number of small fragments of lead shrapnel were located in and around the left shoulder area and chest cavity, indicating a gun shot injury to this area, although injury caused by exploding ammunition during the blaze could not be ruled out as the cause of that. Again toxicology results confirmed the conclusion that Mrs Martin had died before the fire, most probably as the result of the combined effect of severe blunt force head injury and probably a gunshot wound to the chest area. I refer your Honour to photographs 999 and 1008.

Your Honour, the body of Mr Glen Pears was found with the hands secured behind the body with a pair of Smith and Wesson handcuffs. A second pair of handcuffs was linked to the handcuff on the left wrist, both sides of the second handcuffs were closed. At the left front of the neck was located a gunshot wound extending upwards from right to left, fracturing the second cervical vertebra. There was a second gunshot in the right abdominal wall, the

bullet track perforating the small intestine, stomach and left diaphragm, exiting the left lateral chest, the path of the bullet being from right to left and upward. There was no evidence of smoke inhalation,

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Confirming the conclusion that Mr Pears had been shot dead prior to the fire. I refer your Honour to photographs 1013, 1016 and 1018.

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Your Honour, the point two-two-three calibre Colt AR15 semi-automatic rifle that Bryant had used to murder most of his victims was recovered from the wreckage of the Seascope cottage. I refer your Honour to photographs 655 and 656. The FN rifle was discovered on the balcony roof of the small cottage to the south of burnout main residence. That cottage is shown in photograph 401 and 610.

HIS HONOUR: Where do you say it was found?

MR PERKS: On the roof of a small cottage to the south of the main residence. If I refer your Honour to photograph 410, sorry 610, the firearm can be seen on the roof of the balcony.

HIS HONOUR: Oh I see, yes.

MR PERKS: Approximately in the centre of the photograph. Yes, that's it just to the left corner. A large quantity of burnt and exploded ammunition was also recovered from the ruins of the main residence. On the twenty-ninth of April and the third of May, 1996, police conducted an extensive search of Bryant's house in Clare Street New Town. In the hallway of the residence, lying open, were two plastic gun cases, two gun cleaning kits, a third canvas gun case, together with a point two-two-three calibre Australia automatic arms self-loading rifle. Also recovered from this location was a large quantity of point three-o-eight calibre and point two-two-three calibre ammunition. I refer your Honour to photographs 448, 449, 450 and 451.

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In an upstairs bedroom, and in one of the lower front rooms, secreted in the bottom of two pianos were located two leather ammunition belts containing respectively 2 308 calibre cartridges and thirty .223 calibre cartridges together with a number of boxes of ammunition and two magazines along with several other items – and I would refer your Honour to photograph 471 which shows the inside of one piano, and 476 contents of the second piano. Your Honour, in all one thousand four hundred and ninety one .308 calibre and two hundred and forty-six .223 calibre live rounds of ammunition were seized from Bryant's home.

On Monday the 29th April, 1996, at about 6.30 p.m., Detective Inspector John Warren, the officer in charge of the CIB within the eastern police district, unsuccessfully attempted to interview Bryant in his room at the Royal Hobart Hospital. At that time, Bryant was sedated. Inspector Warren returned the following morning. Bryant's response to the allegation that he was responsible for the shootings at Port Arthur was that he didn't know anything and he was a long way from Port Arthur surfing. He also said "I've been unjustly accused". Bryant declined to participate in a video recorded interview and Inspector Warren then formally arrested him for the murder of Kate Elizabeth Scott.

On Monday the 6th May, 1996, the Port Arthur Task Force was established under the overall command of Superintendent Jack Johnston with Detective Inspectors Warren and Ross Paine maintaining control of the ongoing investigation into the events of the 28th April, 1996.

On the 4th July, 1996, after obtaining the permission of Bryant's then defence lawyer, Mr Gunson, Inspectors Warren and Paine conducted an interview with Bryant at Risdon Prison.

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During the course of this interview which was electronically recorded Bryant admitted ownership of the Colt AR15 rifle. He further admitted to kidnapping a male person and ordering him at gunpoint into the boot of the BMW and to then driving the vehicle to Seascope and subsequently setting it on fire. However, at all times throughout the interview Bryant maintained the denial that he had ever entered the Port Arthur Historic site on the 28th of April or

that he had shot any person. And his account of the kidnapping of Mr Pears and the taking of Mr and Mrs Nixon's BMW was at total variance to the facts as we know them to be.

Your Honour, we propose to play to the court an edited version of this interview, not because the Crown relies on any part of it- because we consider that it is important that your Honour gains a proper appreciation of the accused's ability to field questions from two experienced police officers and secondly because his response and demeanour are demonstrative of his complete lack of remorse.

Your Honour, if I could take you to Volume 3 of the Crown papers a transcript of that interview commences at page 19 and if I could refer your Honour to the actual page numbers of the interview I will give an indication as to which parts of the interview have been deleted for the present purpose. Pages 1 to 9 are deleted in their entirety, Page 10 is deleted save for the last few questions and answers on that page, the interview will continue until page 17 when another deletion will occur at the last question and answer, the whole of page 18 is deleted, the interview recommences at page 19 and goes until page 22, page 23 is deleted and it commences again at page 24 –

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And continues until page 31 and the last, the background voices and answer on that page are deleted. Pages 32 to 35 are deleted as well as the first question and answer on page 36.

HIS HONOUR: "Oh, right generous" that's deleted is it?

MR PERKS: Yes your Honour.

HIS HONOUR: That all?

MR PERKS: No. The interview then continues.

HIS HONOUR: That's the only deletion on 36 though is it?

MR PERKS: Yes. Interview then continues until page 39 when from "Warren" downwards on that page there is the deletion. The whole of 40 is deleted and that part of the transcript above "pain" is deleted on page 41. The interview then continues until page 43 when all that part of the interview below the word "Warren" is deleted as is page 44, 45, and 46, and the first half of 47, the interview recommencing below the word "pain". The interview then continues until page 74 whereas that on page 34, that part of the interview between the words "Warren" and "pain" are deleted. The interview then recommences and continues until page 78 where there is a further deletion from where it says "Inspector Warren leaves the room". All of 79 is deleted, all of 80 is deleted, all of 81. The interview then recommences at page 82 through to 90.

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All of page 91 is deleted save for the question which commences "Martin, going back to the BMW" and the fourth answer on that page "Oh, it just came to me to take - take this car – get hold of this car and take it for a drive, it just felt good."

HIS HONOUR: That stays in, does it?

MR PERKS: That stays in. The rest of that page is deleted, as is the next –

HIS HONOUR: So the first question and answer goes out, does it?

MR PERKS: Yes.

HIS HONOUR: And the third and the fifth following?

MR PERKS: Yes. Page 92 is deleted through to page 98.

HIS HONOUR: Deleted?

MR PERKS: Deleted. And it recommences on page 98 at the word "Warren". It continues then through until 115 where there's a further deletion from the second "Warren" on that page and –

HIS HONOUR: To the end of the page?

MR PERKS: Yes, to the end of the page and the remainder of the interview is deleted until we reach page 142.

HIS HONOUR: So 116 to 141 is out, is it?

MR PERKS: Yes. It recommences at page 142 from "Paine" downwards so it's just the last two questions
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And answers on that page. Continues through 143, 144 and finishes at the top of 145, question "Not on this scale, no." Answer "No, suppose it happens, doesn't it." The rest of the interview is deleted from then onwards.

Your Honour, the quality of the sound and vision on this interview are not particularly good, there was some breakdown with the recording facility and the tape has been reconstructed using the audio from an audio tape which was recorded at the same time as the original video, so there is some lack of synchronisation at times and the vision is not particularly good but I would now seek your Honour's leave to have this interview played to the court. It goes for approximately two hours and at its conclusion the learned Director of Public Prosecutions will complete the Crown presentation of facts.

HIS HONOUR: Yes. You've got no submissions, I take it Mr Avery, in view of the editing and the substitution of some of the audio tape?

MR. AVERY: I was not aware of it but I am not troubled by what's proposed, your Honour.

HIS HONOUR: Yes, thank you. Is it all on the one tape, Mr Perks, or is there a gap?

MR PERKS: Yes.

RECORD OF INTERVIEW PLAYED TO COURT

PAINE

Q. Look Martin, you've obviously got a, a, an interest in firearms as well?

A. Well, I have had an interest in firearms.

Q. How many guns do you own?

A. I own umm, a shotgun and a semiautomatic and another semiautomatic. Three altogether.

Q. Where'd you get those guns?

A. Oh, umm, I can't really say, I haven't got my lawyer here so.

Q. Well we have spoken to your lawyer and he knows that we're talking to you.

A. He knows, he knows.

Q. And aah, has no problem with that so aah.

A. Yeah I got umm, one ooh, off a gun dealer and also I got two of 'em umm, got two off...(inaudible)

Q. Did you?

A Yeah.

Q. We have got some of your guns here.

A. Yeah.

Q. Mr Warren might hold them up aah, and we'll perhaps talk about each one individually. That might be the best way, better'n we.

A. It's big, isn't it. Is it loaded?

WARREN

Q. No it's

PAINE

Q. No, it's not loaded.

WARREN

Q. Definitely not loaded Martin I can tell you.

A. Yeah.

PAINE

Q. This is a Daiwoo 12 gauge shotgun.

A. Ohh sorry, yeah I bought that one off umm, Hill, do you know Terry Hill?

Q. You bought that one off Terry Hill?

A. Yeah, yeah.

Q. That's, ahh, what's his business name?

A. I bought, I paid three thousand for it.

Q. Three thousand dollars?

A. Yeah. Guns and Ammo.

Q. Guns and Ammo.

WARREN

Q. Three thousand dollars.

A. But I mean it's a rare bird isn't it really.

PAINE

Q. Yeah very. How long ago did you buy it?

A. I never, the funny thing is, I never umm, got round to using it. Even though I bought it, but it scared me the thought of it not working, and probably ricocheting out.

WARREN

Q. Yeah.

A. 'Cos ... (inaudible) ... and

Q. Mmm

A. And so I never got to use that one.

Q. So you've never used it at all?

A. No, not that one but used the other one.

PAINE

Q. Martin, how long ago did you get that one, can you remember?

A. Umm, that one. I bought that one about four months ago.

Q. About four months ago?

A. Mmm.

Q. Thank you. You're right, it's certainly a big and ahh, strangelooking thing isn't it?

A. She's burnt that one.

Q. Now this is a ahh, point two two three Remington.

A. It's a mess isn't it.

Q. Or a Colt AR15.

A. Yeah, Colt. Been burnt.

Q. Do you remember where you bought that one?

A. Yeah Terry Hill, Terry Hill.

Q. At Guns and Ammo?

A. Mmm.

Q. How long ago?

A. Month after, ahh before that one, five months ... (inaudible)

Q. Could you speak up again?

A. Five months ago I bought that one.

Q. Five months ago. And you can remember how much you paid for that one?

A. Ahh, five grand with the scope.

Q. Five.

A. Five thousand dollars with the scope on it. It was gonna be four and a half thousand

without the scope but it was five thousand with the scope and strap and also got, got some ammunition thrown in.

Q. So that scope that's on it now was on it when you purchased it?

A. Yes. But it was a different color, it was darker.

WARREN

Q. Is that a ahh, special scope?

A. Has it been burnt, must've been burnt, yeah.

PAINE

Q. Is that a special scope?

A. Yes, it was a Colt or a special.

WARREN

Q. Alright, what, what's sort of special about it bearing in mind I don't know too much about firearms Martin but?

A. Can I just look through it, am I allowed to have a look through the scope. Yeah. That's a special one for the gun itself.

Q. Right.

A. Especially made for it.

PAINE

Q. Did you have it especially made for the gun or was it in stock and just came with the gun?

A. Terry Hill said umm, there's extras with that AR15, and I said well I'd be interested in some extras, but he said it'll cost you more. He said there's a scope, little Colt scope that goes with it and he said a strap and some ammo and he said it'll cost you five hundred dollars more.

Q. Ohh right.

A. So.

Q. Alright. How many rounds of ammunition did you get with that, can you remember?

A. Ohh, about eighty rounds. Eighty to a hundred rounds.

Q. Eighty to a hundred rounds?

A. Mmm.

Q. Thank you.

WARREN

Q. Have you purchased any more rounds umm, since you know you've bought the firearm itself?

A. Umm, yeah I've probably purchased eight packets of, be twenty rounds in each.

Q. And that's since you've bought this?

A. Since I've bought it.

Q. From Terry.

A. Terry, yeah. Terry's, have you met Terry before?

Q. Yes, know Terry.

A. Still in business is he?

PAINE

Q. Yes, he's still in business.

A. Yeah ... (inaudible).

Q. Now the next one, why do you ask that ahh, Martin, if Terry's still in business?

A. Ahh, 'cos I didn't have a licence. I had no gun licence.

Q. Sorry I didn't hear you.

A. I had no gun licence and I thought.

Q. So, just let me get this straight. You didn't have a gun licence?

A. No.

Q. Did you make out you had a gun licence when you purchased them?

A. No, I never discussed it, I never, I just said I had the cash on me and he said that's alright.

Q. Did he ever, did he ask to see if you had a gun licence?

A. No, never.

Q. Do you know Terry Hill like as a friend?

A. No, not really. Except when we were living, umm, he, I can still remember when you were young, small and he said you used to come in here and just look around after you'd finished school, I said yeah, so I knew him.

Q. So Guns and Ammo's been in New Town Road for

A. For a while.

Q. Quite a long time?

A. Yeah.

Q. Ohh right I see.

A. I think they were further down the road near the KMart at one stage.

Q. No I don't, of course I don't know anything about guns so I wouldn't know.

A. You, you don't own any?

Q. No, I don't own any firearms.

WARREN

Q. Mr Paine and myself are about the same, we've got really no, well limited knowledge of firearms.

A. Yeah.

Q. Don't like them personally.

A. Yeah.

PAINE

Q. Did you always deal with Terry when you went to the Guns and Ammo or did you deal with the staff as well?

A. Ohh there's only that other person, other man there, he dealt, he passed me the bullets, I used to just give Terry the money.

Q. But when you got the guns, you always dealt with Terry?

A. Ohh yes.

Q. Ohh right.

A. I bought some out of the paper.

Q. Yeah. Alright, the next one we'll look at is a ahh, a three 0 eight ahh, calibre, FN weapon.

A. Mmm.

Q. Do you remember where?

A. I've never seen that one before. Never. That's not one of mine.

Q. You sure?

A. No definitely not, never seen that in my life. It's nice though.

WARREN

Q. Have you ever had a three 0 eight?

A. Three 0 eight, yes. Had a three 0 eight.

Q. Mmm.

A. That was one Terry Hill was repairing.

PAINE

Q. I'll just ask Mr Warren to pick up a scope we have there on the floor because that might be causing the confusion. I believe that that scope was probably fitted to that gun before we got it. Now does that.

A. No I've never seen that scope before in my life. Never. No. No I've never. Never seen that scope in my life.

Q. Now you say you've never seen that three 0 eight before but you did in fact own a three 0 eight?

A. Yeah, definitely.

Q. Right.

A. ... (inaudible) ..., AR10.

Q. Just a sec, before I go onto that. Where did you get the three 0 eight that?

A. I bought the three 0 eight about, this is going back six, seven years now.

Q. Yes.

A. Out of a paper, out of the Mercury.

Q. Out of the Mercury?

A. Yes.

Q. Right. And where did you buy three 0 eight ammunition?

A. Umm, I managed to get that, a load of it, about six, seven boxes with twenty in each box, ohh about four or five years ago but I had it stored away, been stored away, I never got to use that and, and it's only recently that I got to use it but, but they were the wrong bullets. So I went over to Terry Hill for the first time for years and he said you're using the wrong bullets Martin, you should be using the military hard, hard top bullets. He said the only ones I've got in stock, I've got a case of three thousand rounds and he said it'll cost you nine, think it was nine hundred and

thirty dollars. And I said I'll think about it, I'll get back to you on Monday. So it was on the Friday, I phoned him up a few hours later, I said I've got the money, I'll come over and buy the rounds.

Q. So you bought three thousand?

A. Rounds. I couldn't buy anything smaller off him because that's all he had at the time and.

Q. And when was that?

A. That's going back five months.

Q. Ohh right.

A. Four or five months ago.

Q. And is that ammunition.

A. That.

Q. Difficult to buy. You can't can you buy it sort off any gun dealer?

A. Umm, yeah you can buy it, I think you can buy hard top from other gun dealers but it's fairly hard to get hold of.

Q. Alright, we'll have a look at the last gun which is on the floor. And this is a point two two three calibre selfloading rifle.

A. Yep. I've never seen that one before. Mmm.

Q. Well we recovered that one.

A. It's nice isn't it.

Q. Ahh, from ahh, I believe, ahh, from a repairer, being repaired.

A. Mmm.

Q. Does that ring any bells?

A. Repairer. I've.

Q. Have you got any guns at the moment or did you have any guns.

A. That one was repaired for me, that other one, the AR10. That, I took over to Terry Hill.

Q. Ohh, so I've got them confused.

A. Yeah.

Q. That one was okay but the AR10 you had over at Terry Hill's being repaired?

A. Yes. Yes.

Q. Right, I see.

A. Yes.

Q. Alright. Where did you ahh, develop your love of umm, using firearms?

A. Umm, ohh I just, just loved the thought of owning them.

WARREN

Q. How long have you owned firearms for Martin?

A. Umm, going back six, seven years. This was the first one I bought, the one out the paper.

Q. Right. So.

A. I've owned air rifles when I was younger.

Q. Did your Dad sort of encourage you to ahh, use firearms?

A. No, no, definitely not.

Q. He was against it was he?

A. Mmm.

PAINE

Q. Did Mum know you had those guns?

A. Yeah my, ahh, Mum never knew, no. But the funny thing is umm, my Dad said if, when we used to go over to Richmond, he used to point it out, he said if you ever go over there Martin, to that prison anytime, I'm not gonna ever come and visit you, he said. So stay away, stay out of trouble. This, I mean, it's wrong isn't it. I shouldn't be in here.

WARREN

Q. You shouldn't be in here?

A. No.

Q. Why do you say that Martin?

A. There you go, I don't know

PAINE

Q. So Martin.

A. Shouldn't be here.

Q. Where did you use these guns, did you practise shooting?

A. I only used them about four or five times altogether.

WARREN

Q. How many rounds do you reckon you would've practised, you know, any idea?

A. Altogether, probably, probably twenty or thirty rounds out of that AR10 and probably twenty rounds out of that AR15 and that's about it, mmm.

PAINE

Q. Did you ever go shooting with anyone else in the bush or anything like that?

A. No one.

Q. Just on, just on your own?

A. Mmm.

Q. What sort of car do you have Martin?

A. Ahh, I own a Volvo, a seventy nine model Volvo and a Honda Civic.

Q. Good cars?

A. Mmm. Great cars.

Q. How long have you owned the Volvo?

A. Ohh four years I've owned the Volvo for, mmm.

WARREN

Q. Any ahh, specific reason or preference you chose a Volvo?

A. Ohh my Dad owned Volvos.

Q. Mmm.

A. That's probably why.

Q. Right.

A. They're all good cars.

PAINE

Q. What about the Honda?

A. That was a great little car.

Q. Where'd you get the Honda from?

A. Ahh, that was inherited.

Q. Ohh right.

A. Mmm.

Q. And where did you get the Volvo from?

A. That was bought privately out of the paper.

Q. So you went and, you answered the ad?

A. Umm, answered the ad, yes.

Q. And went and saw it?

A. Yeah and bought it.

PAINE

Q. Hey Martin, how come you never got about, got around to getting a driver's licence?

A. Ahh, I didn't think I'd ever pass or get through the courses 'cos I'm not that bright.

Q. Did you ever get ahh, stopped by the police or anything like that?

A. Well on the way back from Kingston I did, one day with the Honda Civic for, for not having it registered. And then he's asked for some ID, I said I haven't got, he asked for ID. He said what about your driver's licence. I said I haven't got a driver's licence. Ohh he said, that makes things difficult. So then like I didn't appear in court 'cos I didn't have to 'cos I got a fine of about two hundred dollars.

Q. Right. So you, you, how old are you now?

A. So umm, how old am I, twenty nine.

Q. And when did you start driving?

A. Umm, I started, what would it be, twelve months or so ago.

Q. Right, So you've had a pretty good run?

A. Mmm. Pretty good run.

WARREN

Q. You've only been driving twelve months?

A. Ohh over twelve months, probably two years.

PAINE

Q. And you were living in Clare Street?

A. Yeah. Lived there for quite a while now. Mmm. Mmm.

WARREN

Q. Just going back to your diving ahh, for a minute Martin ahh, you say you did have lessons with driving or did someone train you?

A. Umm, yes I did.

Q. Right.

A. Paddy. Paddy instructor.

Q. Now you mention you were diving ahh, when you went overseas there?

A. Yeah, in Sweden. A couple of times.

Q. In Sweden.

A. 'Cos they speak English the Swedes.

Q. Right.

A. Mmm.

PAINE

Q. Where did you do most of your diving?

A. Umm, ohh mainly down Port Arthur.

Q. Ohh right.

A. 'Cos my parents owned a shack down there.

Q. Ohh, whereabouts?

A. Safety Cove.

Q. Ohh right.

A. Mmm.

Q. Was it good down there?

A. Yeah great, great down there. Catch a crayfish and have a ... (inaudible)

Q. Martin, just be, while, before I forget it, can we have a look at the three 0 eight again please Mr Warren. The one with the scope. I'd like you to have a closer look at, look at it.

WARREN

Q. If I hold it up with the scope, you might.

PAINE

Q. If Mr Warren holds it like that.

A. Yeah. No, no, I've never seen that one before. Never.

Q. Thanks Mr Warren.

A. ... (inaudible). I wish I had that AR15 in here, then I could probably get out. Jump part of the window, I could probably jump through the window and escape because of this. I don't like being locked up, it's not very nice.

Q. No.

A. ... (inaudible)

Q. I'm not surprised, that'd be a fairly common reaction I suppose.

A. Yeah. Yep.

Q. Martin, do you remember the twenty eighth of April, Sunday the twenty eighth of April this year?

A. Aah, no I don't. Was that the day I suppose everyone's talking about. Ohh, about the drama of me being in Royal Hobart Hospital, I think.

Q. That was when you were in the hospital on.

A. On the.

Q. Twenty ninth.

A. Mmm, twenty ninth. Sunday the twenty eighth. Well was that when I was in here or.

Q. Perhaps if I make it easier. Do you recall going to ahh, your mother's place on Saturday night with Petra and having a meal?

A. Ohh yes. Mmm.

Q. How'd the night go?

A. Ohh. That was the day before I got burnt I think. Ohh, the night went well. Went really well.

Q. Have a couple of drinks?

A. Couple of drinks, yeah. Couple of quiet drinks.

Q. Did you drive back to your place?

A. Yeah. Spent the night at my place, yeah.

Q. Who drove, you or Petra?

A. Umm, I drove. I think I had the Honda Civic.

Q. You had the Civic did you?

A. Yeah.

Q. Left the Volvo at home?

A. Yeah, left Petra's car at home, yeah.

Q. Ohh right.

A. Left, the Volvo wasn't, I didn't use the Volvo very much, once I sold the boat, the boat. You see that's how I got, I had an inflatable Zodiac. Did you hear, have you heard. And that's how I paid for my AR15s 'cos I got about four, a bit over four thousand dollars for my.

Q. So.

A. ... (inaudible) ... motor because it's brand, it's brand new and I paid nearly nine thousand for it, and it was only three months old. I almost gave it away.

Q. Why'd you sell it?

A. I got sick of diving, scuba diving and I nearly lost me life through a boating mishap with my other girlfriend. I was down past the South East Cape.

WARREN

Q. Right.

A. And it was just, it was just luck that a fishing boat came along otherwise I wouldn't be here, me girl, me girlfriend wouldn't be, definitely because she didn't have a wetsuit on.

Q. What happened there?

A. The motor actually stopped. Went through one tank of petrol, put the other tank on the hose and one, it was the connection inside the motor had fallen off. I kept on trying to start it, it just wouldn't start, it wasn't until a fishing boat picked us up that actually ... (inaudible) ... such and such was off. And it was ... (inaudible) ... connective something and it was nearly dark and we actually had a couple of flares and that helped alright. That saved us.

PAINÉ

Q. That would certainly.

A. I would've been dead. I would've had a, ahh my girlfriend would've been dead the next morning.

Q. That would certainly turn off anyone, anyone off boating I'd reckon Martin.

A. Yeah I'll say.

Q. So you're.

A. And I was starting to get cold feet, my feet were starting to freeze up and, I was shaking, my girlfriend was shaking.

WARREN

Q. Weather fairly rough was it or?

A. It wasn't that rough, no, but it was cold, it was cold.

PAINÉ

Q. How far.

A. It was right up near Hen Island, past South East Cape there, 'cos we launched the boat at Research Bay, went right round there 'cos the weather was good you see and the weather was, we were just coming back, halfway back and it stopped ... (inaudible) ...

WARREN

Q. How big was your, your boat?

A. Eleven foot six Zodiac, with a twenty five horsepower Evinrude on it.

Q. Mmm.

A. Brand new it was.

PAINÉ

Q. Do you go surfing as well?

A. Yeah, surfing.

Q. Do you?

A. Mmm. I've been once.

Q. Where's your favorite spots?

A. I've been once or twice now. Well usually at Roaring Beach.

Q. Ohh. A, I've, I went surfing not so long ago round there.

Q. What was it like?

A. Good.

Q. Be cold this time of year.

A. Mmm.

WARREN

Q. Wear a wetsuit?

A. But I forgot to wax me board up that was the only damn trouble.

PAINÉ

Q. What difference does that make?

A. It's difficult if you don't wax your board. You can't really stand up on it.

WARREN

Q. You can't get, you can't get a grip.

A. Yeah. I done a bit of bodyboarding instead on it. Mmm.

PAINÉ

Q. Well do you own a wetsuit?

A. Do I, ohh an old one upstairs but I never use it 'cos it, just take all me clothes off and.

WARREN

Q. Take all your clothes off?

A. And just go in there. I was only in the water for about twenty minutes.

Q. Good God, it'd be freezing.

A. Mmm. The funny thing is, I forgot to take a towel with me so, mmm, I was looking for a towel in the Volvo but I couldn't find one.

WARREN

Q. When, when are you sort of talking about now Martin, when's this latest incident, your surfing? This is the last time you went.

A. Last time I went, yeah.

Q. Right.

A. Mmm. Before I came into the prison.

Q. Have you ever had a wetsuit or?

A. Ever had a wetsuit.

Q. (inaudible)

A. Ohh yes, I've owned wetsuits.

Q. Yeah.

A. Sold my other wetsuit not so long ago, me new wetsuit.

PAINÉ

Q. Where do you get your money to umm, you know buy things like boats?

A. Where do I get my money from, it was left for me through an estate.

Q. Ohh right, I see.

A. Dad left this money and, yeah, mmm.

Q. Do you handle your money carefully?

A. Pretty carefully, goes pretty quickly. I like spending money.

Q. Do you?

A. Mmm. I'd rather spend it than keep it.

Q. You've certainly spent it on those overseas trips.

A. Yeah, spent a little bit. Unfortunately I couldn't go on any more otherwise I would've gone away in May. I was informed nicely that I wasn't able to go away for a long time, for about twelve months, which upset me greatly.

WARREN

Q. Why's that?

A. 'Cos maybe once or twice a year because I only have to accumulate and, and just couldn't go away on any more trips for a while, but that upset me a lot, yeah.

PAINE

Q. Martin, if you'd excuse me, I'd just like to leave the room for a second.

A. Alright.

Q. If that's okay with you, Mr Warren will be here with you and I'll ... (inaudible) ..

Inspector PAINE leaves the room.

WARREN

Q. When you say it upset you, what umm

A. Mmm, just threw me back 'cos I didn't have anything to do.

Q. Mmm. Right. Who, who actually told you that? A, I wasn't able to go on a trip probably for six months and that was ohh, the people, Perpetual Trustees, a lady that looks after my money.

Q. Right. Did you have a regular contact with her?

A. Yeah, we phone up whenever I, I needed something to talk about. Ohh, here's me court case is it?

Q. Gees I'll say. Hey Martin, what, sorry I keep going back to these guns. What did you, ahh, you know you said you went a couple of time to practise shooting, where did you go?

A. I used to only go to one spot, between Dunalley and Eagle Hawk Neck, there's a turnoff there, just past Mundunna there on the left, there's a road, a couple of roads as you just go.

Q. So.

A. To shoot at trees, see if the guns like a.

Q. Just let me get this straight, you go through Dunalley?

A. Yes.

Q. Towards Eagle Hawk Neck?

A. Through Mundunna, so you go past Mundunna, between Mundunna and Eagle Hawk Neck, there's a forestry place there.

Q. Ohh yeah.

A. A couple of roads.

Q. And just turn up to the left and.

A. Used shoot a few tin cans.

Q. Ohh right. Bottles?

A. Bottles, no not bottles 'cos they break and they could injure animals and.

Q. Did you ever make.

A. I never used to shoot the animals.

Q. Sorry about that. Did you ever make your own targets to shoot?

A. I had a couple of targets on boards.

Q. Did you.

A. Cardboard usually.

Q. And how many times would you have shot 'em?

A. Ohh four or five times, then I used to put the gun back in the car and used to leave and go home.

Q. And did you take the targets with you?

A. Yes.

Q. Ohh right.

A. But they were just homemade targets out of cardboard.

Q. Yeah. What did they, what did you draw on them?

A. I used to draw circles.

Q. Circles. And umm, when you practised your shooting, did you, where did you hold the gun?

A. Up like this, on my left.

Q. So you're lefthanded?

A. Umm, I write with this hand.

Q. Ohh that's right, sorry, yeah.

A. I, but this is me finger.

Q. So if you held a gun, you would pull the trigger with your, a finger on your left hand?

A. Yeah that's right, yeah.

Q. Ohh right. And aah, did you ever practise shooting from the hip?

A. No never.

Q. Never?

A. Uhh uhh.

Q. Ohh right. And did you get pretty accurate?

A. No not really 'cos like I said I only used that AR15 about twenty rounds in that one and, and not many round, more rounds in the AR10. So, and I, I never got round to using the shotgun because of it ... (inaudible) ... I heard from Terry that it had a bit of power to it.

WARREN

Q. Mmm.

A. So.

PAINE

Q. Just getting back to Terry Hill, where, did you think it was strange that he didn't ask you for a gun licence?

A. Yeah, he never got round to asking me for one, I was gonna let him know though.

Q. Did you think flashing the cash in front of him?

A. Ohh yeah, I was gonna let him know I had one if he asked.

Q. Yeah.

A. Maybe because he knew me when I was that small he knew me and.

Q. So he saw you grow up basically coming into the shop.

A. A couple of times, yeah.

Q. Over several years?

A. Yeah.

Q. Yeah. Ohh, alright.

A. I s'pose it helps you, when you got the money it helps. People pass things over if you've got the cash.

WARREN

Q. If you've got the cash. What was the setup when you wanted, wanted cash for something Martin, did ahh, you have to contact someone at the?

A. Ahh, yeah, I used to go into the account once every three months for money.

Q. Your accountant?

A. No account, my bank account every three months.

Q. Ohh right.

A. It's managed by Perpetual Trustees.

Q. Right. So you just had to go and see them and ahh, tell them what you wanted the money for?

A. Only see them before the three months, if I've spent that money, had to, I had to live on within three months I would go in and see them.

Q. Mmm.

A. If I needed a, the boat fixed, they help me with the boat or an overseas trip but unfortunately I went through the money a bit too quick and.

PAINE

Q. Did you, have you got a credit card?

A. Never.

Q. Never owned a credit card?

A. No, never.

Q. Ohh, you wanna get one, they're the best things out.

A. Do you reckon I could've gone for extra trips and they wouldn't have known?

Q. Ohh well you've eventually got to pay.

A. (inaudible)

Q. The money back but ahh.

A. Ohh would've, would've been more of a benefit for me.

PAINÉ

Q. Did you have a cheque book?

A. Never. No.

Q. So only ever used cash?

A. I only used cash.

Q. So when you bought the guns from Terry Hill, you paid in cash, was that correct?

A. Yeah, just money in an envelope, I said here's the money Terry. I didn't, didn't bother asking him to count it or not, he just trusted, just trusted each other and passed, passed me over the gun.

Q. Did he ever give you receipts?

A. No, I didn't want any. Never asked for one.

Q. And did, were you ever served by his wife?

A. No, last time I saw his wife was when I was about this high, when I was about sixteen, seventeen.

Q. Ohh right. Ohh.

A. But she's a nice lady, have you met?

Q. No I haven't met her. And what's your favorite drink, you know, with your meals?

A. I like the old can of Guinness.

Q. Guinness?

A. Yeah.

WARREN

Q. There's a man after my own heart.

A. Are you a Guinness man?

Q. I'm a Guinness man, yeah.

A. Where's a can of Guinness, I'd love a can of Guinness.

PAINÉ

Q. What about wine, like wine or?

A. Yeah wine's good.

Q. Australian wines or?

A. Yeah, Aussie wine, red wine. I can't, don't want to talk about this, alcohol.

Q. Ohh right, we won't.

A. It's getting to me.

Q. Aah. Aah.

A. Wish you could get me out of this place, or even if you could let me mix outside with the other prisoners, be good.

Q. Do you know why you're here?

A. Know why I'm here, well Inspector Warren was saying in the Royal that I was on one murder count.

WARREN

Q. That's correct.

A. Is that correct.

Q. Mmm.

A. God, I wish that wasn't the case.

PAINÉ

Q. We all do Martin.

A. Mmm.

Q. We all wish that.

A. There you go.

PAINÉ

Q. Martin, I'm gonna just get Mr Warren to pick up that ahh, sports bag on the floor and show it to you.

A. It's a nice one isn't it.

Q. It's a very nice bag.

A. Mmm.

Q. Seen that before?

A. No never, never seen that before.

Q. Well I believe you.

A. I've got a couple of sports bags. I've got a rubber black one upstairs at Clare Street I bought ...(inaudible) ...

Q. Well I believe you bought that in Myers or Fitzgeralds or somewhere in town, accompanied with a, a young woman earlier this year.

A. Earlier with a young woman, I don't recall buying that.

Q. You sure?

A. No, not at all. If I said that that was mine, I'd say that was mine but.

Q. Ohh.

A. No.

WARREN

Q. have you ever had a bag, a bag like that?

A. Bag like that, I've got a couple of sports bags. I've got a red one, I can't, ohh a bit like that and a blue one, just all blue at home but.

PAINE

Q. Do you recognise the brand name there?

A. No.

Q. It's a Prince brand.

A. Ugh ugh, no.

Q. Because it's funny, you said, did you say you liked playing tennis?

A. Tennis. I haven't played tennis for about 12 months or so with Mum.

Q. Yeah. 'Cos Prince make, principally make tennis equipment, shoes and gear and racquets and.

A. Mmmm.

Q. Did you know that?

A. No I didn't.

Q. Ohh.

A. No.

Q. Thanks Mr Warren.

A. Ohh with my girlfriend you reckon I bought that.

Q. I'm sorry, I didn't hear you.

A. You, you said that you think I bought that bag in Myers. You said the.

Q. I said I believe you bought that in Myers or Fitzgeralds in the company of ahh, a young woman, yeah. And you said.

A. No.

WARREN

Q. Do you think you might, you could have done and you just can't remember or you?

A. No I don't recall having a sports bag, at the last time I bought a sports bag was, like this one I bought in Franklin.

PAINE

Q. Well I'm sorry I honestly believe you bought that bag.

A. Mmm.

Q. Martin. I'm sorry about that.

A. That's alright.

Q. I believe you bought that bag.

A. That's okay. Mmm.

WARREN

Q. Martin ahh, Mr Paine asked you before about you recalling the night you had dinner at your mother's and, what happened that night when you came back home?

A. Oh well I forgot what I had that night for tea at my Mum's but I think we went out to the pictures, I'm not quite sure. But we went out, that's right went out, sat, went out dancing and stuff. Went to the Cadillac Club for a couple of hours because Petra is my girlfriend umm, her cousin used to go there.

PAINE

Q. Could you speak up Martin, I can't hear, I'm sorry.

A. Ohh we went to the Cadillac Club that night with me girlfriend.

Q. After dinner at Mum's?

A. Mmm. Went back, I think we went back to my place for a while and then went out and umm, but her cousin wasn't there but we spent a few hours there. Then we went to Hadleys, had a drink at Hadleys and left and went home.

Q. What time would you have got home?

A. Ohh must've been about eleven, twelve o'clock that night.

Q. Did you set the alarm clock when you went to bed?

A. Umm, no, never usually set the alarm clock.

Q. What time did you wake up?

A. Ahh about seven, eight o'clock.

Q. What did you do then?

A. We had breakfast like we used to do and then, ohh have, had a shower together. Had breakfast, then I said to Petra, well I'll see you on Monday. She usually goes home on the Sunday a lot, likes to go home to her parents on the Sunday and just, 'cos she doesn't get to see her parents very much.

Q. And what'd you do?

A. I went surfing. It got me surfboard and went surfing.

Q. Did, what time did you leave the house, can you remember?

A. Ahh, must've been about eleven o'clock I reckon.

Q. Eleven o'clock?

A. Yeah, when the sun came up and it got a bit warm. Mmm.

WARREN

Q. And whereabouts did you go mate?

A. Whereabouts did I go, I went round to Roaring Beach, surfing.

PAINE

Q. Do you remember setting the alarm when you left home?

A. No.

Q. Sure?

A. No, definitely not. Ohh right.

A. Last time I set the alarm was when I went away to Melbourne. Mmm.

Q. And did you travel straight to Roaring Beach?

A. I travelled straight to Roaring Beach, yeah.

Q. Stop anywhere on the way?

A. I think I stoped and got a cappuccino, yes, at Sorell. Mmm.

Q. You didn't stop at Midway Point?

A. Midway Point, no.

Q. Get petrol anywhere?

A. Get petrol, no, didn't need to get petrol. 'Cos I got some petrol a couple of days beforehand. Filled up the tank and, mmm.

Q. Buy any tomato sauce on the way down?

A. No, no tomato sauce.

Q. Ohh.

A. Why would I want tomato sauce for.

Q. Well I don't know.

A. Things, funny things. I only, I only as you know the things I know, apart from that, that's all I can let you know. Mmm.

Q. Do you know.

A. If I can help anymore.

Q. Do you know David and Sally Martin?

A. Ohh, yeah, I knew them well.

Q. You knew them well?

A. When I was about, when I was about that high.

Q. When did you last see them?

A. I saw them I reckon back in 1991 when I saw them in town. No it wasn't, they were going to Calvary Hospital to visit some friends.

Q. I don't believe that.

A. Calvary Hospital to visit friends.

Q. I don't believe that.

A. Why?

Q. I believe.

A. I went down, I went to their, their house on the Sunday but they weren't home. You said last time you saw, saw them. You didn't say, did you go and see them? I went down to see them but they weren't there.

Q. Ohh sorry. I've got confused.

A. You got them confused, ohh. Yeah I knocked on the door and there was no one at the guest house.

WARREN

Q. And that's on the Sunday you went surfing?

A. Yes. 'Cos I went down 'cos apparently over the years they were renovating the guest house and I thought I'll call in and see them and have a chat to them.

PAINE

Q. So what you're saying is you wouldn't have ever spoken to them for some years?

A. Yeah, that's right. Would've been good to have seen them but there was no answer at the door.

WARREN

Q. What about ahh, the ahh Martin boys, have you seen them recently?

A. Yes, I was with me girlfriend, must've been ahh, eight months ago. We were over at Eastlands doing a bit of shopping and Glen, Glen Martin, that's one of the sons, we went back and had a, I think it was a cappuccino, ice coffee that day at the cafeteria.

Q. Did you talk to.

A. Sorry I can't talk very well 'cos we I haven't had a drink or anything to eat today and I'm a bit worked up.

PAINE

Q. Would you like a drink of water or something?

A. Yeah or a cup of tea would be nice.

Q. I'll see if I can arrange it.

A. Alright, thanks. Then I'll be up like this talking to you. Yeah, what a lovely place at the Martins.

Inspector PAINE leaves the room

WARREN

Q. Yeah. What sort of memories have you got of that place?

A. I've been informed by some security guards here that it's been burnt down to the ground ... inaudible ... been burnt down to the ground. Is that so?

Q. Well look, just wait till Mr Paine gets a drink for you and just have a rest for a few minutes okay.

A. Mmm. Am I allowed to have.

Q. Feeling alright mate?

A. Ohh yeah, I'm feeling good.

Q. Are you?

A. Yeah. Am I allowed to have a read of them?

Q. No, they're ours mate.

A. They're yours, yeah.

Q. I don't think you'd ahh, find any great interest there mate.

Inspector PAINE re-enters the room.

PAINE

Q. I'm not a very good waiter.

A. Ugh, ugh.

Q. Do you have to go past Seascapes to get to Roaring Beach?

A. You can and you can't; you can go out past Seascap to get to Roaring Beach or you can go, cut, cut off at Taranna and go around to Roaring Beach.

Q. So which way did you go that day?

A. I cut up at Taranna, went around Roaring Beach. I ... inaudible ... the circle around the, past Port Arthur.

Q. Could you speak up Martin sorry.

A. I actually cut off at Taranna to go round to Roaring Beach that day.

Q. But you didn't say that you called in at the ahh, ahh, Seascap?

A. Seascap I did, that was after I went surfing.

Q. After you went surfing?

A. Yes.

Q. Ohh right, sorry. Where'd you park your car at Roaring Beach?

A. Umm, at the car park there. It's small.

Q. I don't know the area.

A. Ohh there's a small carpark at Roaring Beach and it takes about five minutes to walk into the surf.

Q. So it's quite a long walk for the carpark to the beach?

A. Yeah, about a five minute walk.

Q. Ohh right.

A. Mmm.

Q. What color's your surfboard?

A. It's umm, all different colors, it's got a bit of purple, it's got a bit of white and, it's a Stranger surfboard.

Q. Did anyone else see you at Roaring Beach?

A. There were two other people bodysurfing on that day.

Q. Did they have wetsuits on?

A. They did, short ones.

Q. Short ones.

WARREN

Q. Did, ahh, were you talking to them at all?

A. No.

Q. They saw you?

A. I reckon they did but they were, they was, they were that, oh a fair distance away.

Q. Mmm.

A. And if I was surfing at one end, they'll surf at the other.

PAINE

Q. What were you wearing umm, before you obviously took your clothes off to go surfing?

A. I was wearing a tracksuit. And ahh, I was wearing a whole tracksuit but the other half of the tracksuit was blue. Mmm and a jacket.

Q. Did you walk from your car to the beach with that on?

A. Ohh no, I had umm, ohh with my clothes.

Q. Yeah.

A. On? No I had to wait around for a while because I forgot the towel and I was shivering a bit and I put my clothes on, they were a bit wet.

Q. So you put them back on at the beach?

A. Mmm.

Q. Ohh right.

A. Had to stand for about five or ten minutes till I dried off.

Q. And after you left Roaring Beach, where'd you go then?

A. Umm, dunno, I stopped ahh, at umm, Nubeena and got a coffee and I think I got a toasted sandwich too.

Q. Do you remember where that was?

A. I was at the shop there, it's a little shop near the school.

Q. A little shop near the school you got a toasted sandwich and a cup of coffee?

A. Yeah.

Q. What'd you do then?

A. Then I left and drove around past Port Arthur and went and, went in to see the Martins. Mmm.

Q. Was there anyone else there when you ahh, called in?

A. No, I umm, unfortunately I held up a car, I took ahh, I saw this car I liked and got umm, held up the person in the car and kidnapped him.

WARREN

Q. Kidnapped him?

A. Mmm.

PAINE

Q. When you say held up.

A. That was actually past the Martins. Ohh actually, that was on the corner of Palmers Lookout. No I didn't really, didn't know whether I'd let you know you're not gonna let anyone else know. You're not gonna let anyone else know. Yeah, no, I stopped the car, I was in the Volvo, I stopped the car on the corner, there was a nice looking BMW and I asked them to get out of the car but the ...

Q. How many people were in it?

A. There was a child in there, in the back and a lady and the man. The man, I got him out the car, I had my gun with me and I said I want to take your car, so I took his car. I got, then his wife or girlfriend got into the Volvo with the child and I left, I drove off.

Q. So you drove away in the BMW?

A. Yes.

Q. With another male person?

A. Yeah, he was in the boot. I put him in the boot of the car.

Q. How did he get into the boot?

A. Bit like the Ben Morrison case isn't it?

WARREN

Q. You remember the Ben Morrison case do you?

A. Yeah.

Q. Yeah, what, what.

A. Umm.

Q. What do you remember about it?

A. I remember I saw you on television and I saw you that day at the Royal. I thought you were connected with Ben Morrison. Yeah I thought that was a rather dramatic.

Q. Mmm.

A. 'Cos Radloff's in here.

PAINE

Q. Who's in here?

A. Radloff, the man that was involved in the Ben Morrison.

WARREN

Q. Have you ever met him have you?

A. No, never.

Q. No.

A. Only heard about him but. Did you ever meet him?

Q. No, I never actually met him, no.

A. Ohh.

PAINE

Q. Have you met him?

WARREN

Q. But I know him.

A. You know him, yeah.

Q. Yeah.

PAINE

Q. Have you met him Martin?

A. No, I've only read things about him in the paper, mmm.

WARREN

Q. What sort of things ah, do you think about him?

A. I don't know. Funny guy. I think things went wrong with him.

Q. Mmm.

A. Like they did with me and.

PAINE

Q. Back, just.

A. And later on you'll think twice why did, why did you do these things and, yeah.

Q. Martin, just back to the BMW. How did this guy get to get in the boot?

A. I put him in the boot because I had a gun.

Q. Which gun did you have?

A. I had the umm.

Q. Can Mr Warren hold it up?

A. That AR15. You see if people didn't do these unfortunate things, you guys wouldn't have a job.

Q. Well there's a lot of truth in that Martin, let me tell you.

WARREN

Q. That one there?

A. Yes.

Q. Yeah.

A. That was the one.

Q. This is the one.

A. It's a sweet little gun. Because it's so light. How light is it?

Q. Can you remember what you said ah, this fellow?

A. Hey mate, can you get out of your car please, I'm gonna take your car.

Q. Did, and you had this pointed at him did you?

A. Yeah I had it pointed at him.

Q. Right.

A. And moving it backwards and forwards with his wife and child too.

PAINE

Q. Was the gun loaded?

A. Yeah the gun was loaded, yeah had about eight, nine rounds in it. Mmm.

Q. And where did this take place Martin sorry?

A. At the Fortesque Bay turnoff, just, ohh about three or four minutes away from the Martin's farm.

Q. To which side of ...

A. That was.

Q. ... The Seascape is Fortesque Bay turnoff?

A. Ahh, before you go to Seascape on the way to, on the way to Hobart.

Q. So it's on the Hobart side of Seascape?

A. Mmm.

Q. Right. And where did you drive then?

A. I drove full speed, it was about, I was going about 140 Ks up the road and went into Seascape. Just drove down there in the BMW.

WARREN

Q. Where, can you remember where you drove when you went into Seascape?

A. I remember skidding on some grass and, I had a heap of petrol, had some petrol with me, I put some petrol in the BMW.

PAINE

Q. And what happened then?

A. Well what happened then, I knocked on the door to see the Martins but there was no answer. And what happened is I remember the explosion.

Q. Where was ...

A. I think, I don't know whether I put the car on, lit the car up or not.

Q. Sorry?

A. I don't know whether I lit the car up or not but there was an explosion.

Q. Where was the man that was?

A. He must've been trapped in the boot, the hostage.

Q. Where did the petrol come from?

A. A service station.

Q. Which service station?

A. Umm, where do you get the petrol, in Elizabeth Street self serve.

Q. So you had it in drums?

A. Mmm.

Q. Can you describe the ...

A. Plastic, just plastic drums.

Q. What colour were they?

A. Red.

Q. Red plastic containers?

A. Mmm.

Q. How many did you have with you?

A. Ohh two or three on me. Just in case, I used to often run out of petrol you see and oil, I didn't have any oil on me at the time but I had petrol.

Q. When did you say you ran out of petrol, in the Volvo you're talking about.

A. Mmm.

Q. How come you ran out of petrol?

A. Ohh the, it, it was the gauge was pretty, fairly faulty you know.

Q. The gauge was faulty?

A. Yeah.

Q. Ohh.

A. And then.

Q. How did the BMW go?

A. good.

Q. Do they go pretty well do they?

A. Yeah.

WARREN

Q. Was it an automatic or manual?

A. Automatic.

Q. Mmm.

PAINE

Q. What model was, was it, do you remember?

A. Well, I was a ... inaudible ... Ohh it was a fairly high model, fairly big model, you know. Mmm. Worth a fair bit of money they say, fifty, sixty thousand dollars a car. I was rapt up in it when I saw it.

WARREN

Q. Mmm.

A. I would love to own a BMW.

PAINE

Q. What colour was it?

A. Gold. It was a gold BMW.

Q. After you left Roaring Beach and before the BMW, did you speak to anyone?

A. Only the, think in the shop in Nubeena when I got the toasted sandwich and ...

Q. Did you speak to anyone before you went to Roaring Beach surfing?

A. Ahh, oh I had a coffee at Sorell.

Q. Coffee at Sorell.

A. Yeah.

Q. Right.

A. And something to eat, I forget what i had to eat.

Q. And what about Mr Larner?

A. Mr Larner. Larner's were the people who used to agist the horses umm, my Mum and myself had a horse and my sister, we used to just, they've got a, got a farm.

Q. Speak up.

A. They've got a farm at Port Arthur. Mmm. No, last time I seen them was probably going back ten years ago, mmm. But then.

Q. Did you used to go down to Port Arthur regularly sort of, of weekends and holidays?

A. Mmm. Nearly every weekend. Mmm.

WARREN

Q. Is this when you were a young fella?

A. Mmm. The Martins won a farm too, next to the Larners.

PAINE

Q. Were you on your own when you went to Port Arthur, oh Roaring Beach that day?

A. Yes. Mmm. I was. I wish I'd took my girlfriend but like I said, it's good for her to go home on a Sunday to her parents.

Q. Alright, back to Seascap. So.

A. Yeah, back to Seascap.

Q. You got out of the car.

A. Back to the Pink Palace.

Q. Is that what you used to call it?

A. Yeah, most people down there used to call it the Pink Palace 'cos it's pink.

Q. Right so we've got, you've got out of the BMW?

A. Mmm.

Q. Tipped petrol, where'd you tip the petrol?

A. I don't recall because it was a vast explosion and I had my gun strapped around me.

Q. Which one?

A. The AR15 there.

Q. The one Mr Warren lifted up a short time ago?

A. Yeah. Mmm.

Q. Right. And what'd you do with that?

A. And umm, I also had me shotgun.

Q. Your shotgun?

A. Yeah, And I don't remember anything else.

WARREN

Q. Where did you have the shotgun Martin?

A. I left that in the Volvo.

Q. When you went to Seascap?

A. Yeah.

Q. You left the shotgun in the Volvo?

A. Yeah. 'Cos I was all shaky 'cos I had this bloke hostage and ...

Q. What about his ahh, what about the lady?

A. Yeah I got her to go, get into the Volvo so the child went in too. She was just there shocked. Devastated. Mmm. So ...

PAINE

Q. Did you actually knock on the door at Seascap?

A. Mmm, few times, went around the back, knocked on the door, no answer.

WARREN

Q. Do you remember talking to anyone that morning, that same morning at Seascap?

A. No.

Q. Are you sure about that?

A. Mmm.

PAINE

Q. Did you go inside at Seascap?

A. No. You can ask me questions. It'd be interesting if I could hear some of yours, you know, like your other, if you've got other things that you could tell me on you report.

Q. Did you get the hostage's name?

A. No, not at all.

Q. So apart from ...

A. What have you got on your report? Is there other things that you reckon I've done down there?

Q. Yes there are.

A. What like?

Q. Well you see.

A. Tell me.

Q. If you could tell us.

A. No I don't.

WARREN

Q. Do you, you've already said that you remembered me going to see you at the hospital?

A. Ohh yes. Mmm.

Q. And that I told you that you were being charged with ...

A. A murder count.

Q. A murder.

A. Yeah.

Q. What recollection have you got of that?

A. Must've been the hostage, the bloke in the BMW must've died.

Q. That's what you think it is is it?

A. Mmm.

Q. Do you remember me telling you who you were charged with murdering?

A. No I don't ... inaudible ...

Q. Do you remember me mentioning a name?

A. A murder count. No I don't I remember yes, I remember you mentioning a name but ...

Q. Mmm.

A. I don't actually vaguely remember who it was or, who was it actually?

Q. Right, well I mentioned to you.

A. Mmm.

Q. I told you that you were being charged with the murder of a woman called Kate Scott.

A. Ohh.

Q. Does that register with you?

A. No. I mean I let the lady go into the Volvo, I didn't hurt her or anything. No I don't register, it doesn't register.

PAINE

Q. Did you have any favourite restaurants at Port Arthur?

A. What sort of work did she do?

WARREN

Q. Well I don't know to be honest ahh, Martin.

A. Mmm. Ahh, no favourite restaurants, ohh Kelly's is pretty good, that's at, out, just it's not quite into Port Arthur. You turn off, that's actually in Stewart's Bay ... inaudible ...

PAINE

Q. And is that next to the service station is it?

A. Umm, next to the service station. It's about a kilometre.

Q. So you recommend we visit that one?

A. Yeah recommend.

Q. But that's the only one?

A. Damn chair, it's a nuisance when they're not that comfortable these ... inaudible ...

Q. No ours aren't that comfortable either.

A. Let's swap then. Mmm. Mmm.

Q. Did you actually go into Port Arthur site that day?

A. No I wouldn't have because it would've cost me. In think about twenty five dollars to have gone in. It would've been pointless for me to even have thought about going in. 'Cos I didn't have, I had only about ten, fifteen dollars on me.

Q. How did you pay with your ...

A. For the day.

Q. Your cup of coffee that you said you bought at Sorell?

A. Ohh I had some coins.

Q. What did you have the coins contained in?

A. In the glovebox in my car.

Q. Just loose in the glovebox?

A. Mmm. That's about all I had that day, coins. Gold coins.

WARREN

Q. Do you need another drink?

A. Yeah, my lips are drying up.

PAINE

Q. I suppose when you lived at Port Arthur, or when you used to visit Port Arthur, there wasn't a fee to get into the site?

A. Mmm.

Q. Times have changed haven't they?

A. Yeah. Is there a, is there still a fee, have they still got the ...

Q. Well I suppose so.

A. Mmm.

Q. You have to pay a fee to get into all parks and reserves don't you in Tasmania?

A. Yeah, people weren't happy there because they've got that toll box to pay to get into Port Arthur.

Q. Have you ever gone into Port Arthur and paid the toll?

A. Umm, it was there but when my parents had the shack, had a sticker and you had a shack or residence, you didn't have to pay so you just drove past.

Q. What about say in the last couple of months?

A. No, never. I haven't been in Port Arthur probably six, seven years. Mmm.

Q. Have you toured around the state, Tasmania as, extensively or?

A. Not, not, went up to Deloraine a couple of times and Launceston and ...

Q. Do you know people up there?

A. No. No I don't.

Q. Oh right.

A. It'd be good actually to have some friends in Launceston you could stay with. Yeah I wish it had a few more friends. But I didn't have a great deal of friends at school so it made things difficult.

Q. Back at, back to Seascope. What happened when no one answered the door?

A. I went round to the back.

Q. You went round to the back? And what did you do there?

A. No answer the door there either.

Q. No.

A. So next thing is I must've played around with petrol.

Q. Must've played around with the petrol.

A. Mmm.

WARREN

Q. What do you mean, you must've played around with the petrol?

A. Set fire to the, to the car.

Q. Can you remember doing that? You say you must.

A. No I can't. Vaguely. Vaguely remember a flash and I must've been in the car when it went up 'cos I got burnt so.

Mmm. Someone's whistling.

PAINE

Q. And you said to us earlier that you think that the hostage at that stage must've been in the car, that's, is that correct or?

A. In the boot.

Q. Must've still been in the boot?

A. Yes.

Q. Yeah.

A. Mmm.

WARREN

Q. How do you feel about that Martin?

A. Pretty awful. Mmm.

PAINE

Q. Just excuse me for a moment please Martin, do you want another drink?

A. No, no.

Inspector PAINE leaves the room

WARREN

Q. Ahh.

A. Shame me legs are tied up.

Q. Sorry?

A. Shame these legs, I might be able to take them off.

Q. No, leave, leave them the way they are I think.

A. Otherwise I might get in trouble.

Q. Mmm. So don't, don't ahh, play with them you might get yourself in trouble.

A. That is why I might've been better off if I wasn't alive anymore with all this. This bullshit.

Q. Just excuse me Martin.

Inspector WARREN leaves the room

A. Ahh, it's turned off I suppose. You've got a hot drink, you're lucky. Some interesting guns.

Unknown voice: Ahh?

A. Some interesting guns there.

Unknown voice: Mmm.

Inspectors PAINE and WARREN re-enter the room

Inaudible background conversation

WARREN

Q. How's the feet?

A. Oh my leg's aching a bit. That doesn't matter umm, it's good to have a talk to people. I tell you I'd rather be in at Kentucky Fried Chicken at this minute.

Q. Martin just ahh, why did, why did you, I'm rather interested ahh, to know why you made the comment just a minute ago, about you said, you said you'd rather be dead or something?

A. Well at this umm, now I can't remember now what, what I was thinking. Ohh that's right that umm.

Q. Just talk up a bit Martin?

A. Ohh I wouldn't have to worry, worry about this would I, I wouldn't be in prison would I, but and all the burns, having to put up with all the burns and stuff.

Q. Mmm.

A. Be easier for you wouldn't it if I was.

Q. Be easier for me?

A. Yeah.

Q. Well, it really doesn't make any difference to me Martin, so.

A. Mmm.

Q. We don't like to see anyone ahh, die to be perfectly honest.

WARREN

Q. How did you get the burns?

A. From the fire I spose.

Q. Which fire?

A. I, I was involved in down at the car. The BMW.

Warren: Q. Can you remember how you started that fire?

A. Must've been with a match.

Q. With a match?

A. Mmm.

Q. Do you carry matches with you?

A. Not very often, I don't smoke so there's no reason for me to carry matches or lighters.

Q. Mmm.

WARREN

Q. You don't smoke at all?

A. No, not at all.

Q. Cleanliving person?

A. Try to be.

WARREN

Q. Have you ever had a smoke Martin or ...

A. No, not at all.

Q. Mmm. So ahh, why would you have the matches?

A. Probably because ahh, there happened to be a box of matches in the BMW, jacket, in me jacket.

Q. In a jacket there?

A. Yeah.

WARREN

Q. What type of jacket was that?

A. Inside 'cos I umm, wore it a couple of times when I used to light like an open fire at home so I forgot to take the box of matches out ... inaudible ...

Q. What type of jacket was that Martin?

A. It was a Ripcurl, it was a black Ripcurl.

Q. How long?

A. It would've went to about there.

Q. What, went down to about your mid thighs?

A. Waist, yeah.

Q. So it's a long jacket?

A. Yeah.

Q. Ohh. When, the hostage, did you, did he just get in or did you handcuff him or anything like that?

A. Umm, handcuffed him or anything, no. Ahh, what was that?

Q. Well do you own any handcuffs?

A. No, never, never owned handcuffs in my life.

Q. Ohh right. Do you remember what he was wearing?

A. Ahh, just a sports jacket, a shirt, jeans.

Q. Excuse me one moment, having a technical problem.

A. Like I said, I put you all, through this and wouldn't be here now if I wasn't.

Inaudible background conversation

A. I want to know if I can sit over there on one of them chairs, make it easier ... inaudible ...

Q. The trouble is they control those sort of things, not us.

A. inaudible

Q. Can you describe the clothes the hostage was wearing?

A. Ahh, he had a sports jacket on and ...

WARREN

Q. Do you know anyone called Jamie?

A. No, not at all.

Q. What about Rick?

A. Rick, no. I don't. I've got no recollection of him.

Q. Do you remember seeing a white ahh, small Japanese car, like a Corolla?

A. Corolla, no. Not at all.

Q. Did your Mum and Dad ever want to buy Seascope?

A. No, no.

Q. Did you ever want to buy it?

A. No, umm, I would've loved to have bought the Martin's farm, that other one, next door to the Larson's but.

Q. And that's in umm.

A. Just ... inaudible ... it's beautiful.

Q. What's the name of the road?

A. Ahh, Palmers Lookout Road.

Q. Palmers Lookout.

A. Yeah, I'd like, what I did, asked them a few times but Mrs Martin didn't want to sell. She said ... inaudible ... one day and I ... inaudible ...

Q. When did she tell you that?

A. When I was smaller, when I was about sixteen, seventeen.

Q. Ohh back in school days?

WARREN

Q. Was that when you first said that you'd like to buy that property or ...

A. Ohh a few times but that was about ... inaudible ... I talked to my mother that night and she said no I'm not interested in helping out.

WARREN

Q. Is that when the Martins bought it?

A. Yes, back in '78. That upset me that did. Mmm.

Q. Did Lindy like, used to like going down there?

A. Yeah Lindy loved it. Lindy had a lot of friends.

Q. Ohh right.

WARREN

Q. Did you have many friends down there when you were a young fella?

PAINE

Q. Excuse me just a moment.

A. ... inaudible ... I had friends under the water.

Inspector PAINE leaves the room.

WARREN

Q. On the water?

A. Sea. They were my friends, mmm, weekend used to scuba dive.

Q. Mmm.

A. Maybe once, maybe twice a day. Dad used to take me out a lot, over.

Q. Did Dad ahh.

A. My Dad was a ... inaudible ... man.

Q. Did Dad do any diving when you were diving or?

A. No.

Q. He'd just sort of take you out?

A. Mmm. Start the little seagull engine up.

Q. Mmm.

A. In this ... inaudible ...

Q. We're just having a few ahh technical problems. Your father always encouraged you though to sort of get into the diving or?

A. Yeah always.

Q. Right. Want another drink Martin?

A. No, no, that's alright. They get a bit smelly after a while these bandages.

Q. Well you can notice, I can't notice 'em so.

A. ... inaudible ...

Q. Sorry?

A. I don't even know what day it is today. I lose track of the days. I'm losing, I'm losing my mind.

Q. It's the, the fourth of July actually today.

A. I thought you were gonna say that ... inaudible ... lose your mind.

Q. It's Thursday today the fourth of July. Remember ahh, earlier when you said that you saw Glen Martin at Eastlands?

A. Yeah.

Q. Yeah. Did you know that he had a shop there or?

A. I'd known for quite a while, yeah, me and me Mum.

Q. Mmm.

A. We used to go up to the shop and just look in, ohh he must own the shop.

Q. Mmm.

A. See him working in there. 'Cos his daughter's got a shop too, at Sandy Bay. Has a milkbar.

Q. His daughter?

A. Mmm.

Q. Ohh right.

A. Do you know the Martin's at all?

Q. Ohh I know Glen Martin yeah.

A. Quite well?

Q. Ohh reasonably well.

A. Mmm. So what would be the value in the house to burn down, apparently its sposed to have been burnt down ... inaudible ...

Q. I've got no idea. Can you remember what you said to Glen that day or, at the shop?

A. I asked for a cappuccino. How are you Glen and how is your brother.

Q. Mmm.

A. How's your Mum and Dad.

(Inaudible background conversation.)

Q. Mmm.

A. Have you been in there for a drink with him at Eastlands?

Q. Ohh could've been Martin. I really wouldn't know where his shop was in there so. I might've went, been in there not knowing you see.

A. Mmm.

Q. Just excuse me for a while.

WARREN

Q. Martin there's just ahh, just go back a couple, a couple of steps now. When you took the hostage, now you've said you, you can't remember his name?

A. No.

Q. You had your gun?

A. Yeah.

Q. And, and you said it was loaded?

A. Mmm.

Q. Now how was it loaded ahh, did it have a magazine or what?

A. Yeah, it had a magazine.

Q. Right.

A. Had a magazine.

Q. Alright. How many ahh, rounds do you think was in that magazine?

A. There was only eight rounds because I put ten rounds in it and I fired two rounds be, when I left home on Sunday. Target.

PAINE

Q. At which target did you fire them Martin?

A. At which.

Q. Those two rounds, what did you fire them at? A. I fired 'em at a little, umm, sometimes I use a saucer ... inaudible ... or tin cans or whatever I see.

Q. So you didn't fire it at a, one of your homemade targets that you were talking about earlier?

A. I could've umm, I don't know whether I had a homemade target on me that day but umm, no I dunno, I'm not sure now.

Q. Did you do that at that place past Mudunna that you told us?

A. Mmm.

Q. So you stopped and did that.

A. I've been there various other times too.

Q. Yeah.

A. Couple of times.

WARREN

Q. So had eight or nine rounds left in it you say?

A. Yeah, about that. Can't be quite sure about that, it was less than ten.

PAINE

Q. How many does the magazine hold in total?

A. 20.

Q. 20.

A. Or up to 30 sometimes.

Q. Up to 30?

A. Yeah.

Q. In the same magazine?

A. Mmm. It's a lot isn't it.

WARREN

Q. Did you always maintain a full ahh, full lot of rounds or not?

A. No because I never, I didn't want to disturb the peace with having a gun, a gun, 'cos they make quite a big bang.

Q. Mmm.

A. Jump around a bit.

Q. The gun jumps around a bit does it?

A. They kick a bit. It's the sound that's worse, it's pretty loud.

Q. Mmm.

A. Didn't want to get in trouble with the neighbours because I didn't have a licence you see when I was target practising.

Q. Which neighbours are you talking about?

A. Whoever they were when I was target practising.

Q. Mmm.

A. I didn't want to get in trouble, if they heard the guns go off, the gun go off, thought they might call someone in and.

PAINE

Q. Why did you have the guns in the car on that day?

A. 'Cos I wanted to target practice. I often took them when I went down that way surfing or, used to go down there and just to, say at Dunalley and have something to eat or drink and, at the hotel or take their guns down there and just.

Q. Speak up a bit please.

A. And just use 'em as targets, a couple of times, just made me feel good, just letting, letting a couple of rounds off.

WARREN

Q. You went, you used to go down in that area a fair bit then?

A. Mmm.

Q. Would it be fair to say you go down there more than ahh, you know other parts of the State?

A. With the guns?

Q. Mmm.

A. That's the only place I used to take the guns.

Q. Right.

A. Nowhere else and it's only been the past six, seven months that I've actually used the guns. Before that I'd never used them, before in my life.

PAINE

Q. Did you think that, did you think it was safe to have the ahh, firearms loaded in your car?

A. Umm, well they've got a safety catch thing.

WARREN

Q. So you always kept 'em in you car did you?

A. Mmm.

Q. Even when you were at home?

A. Mmm. It's only seven month's ago that I got that other one out, that AR10, that I never got round to using it but I'd used the wrong bullets so that was seven month's ago that I found out, I went to Terry Hill and got.

Q. Mmm.

A. That's, it's only been seven months that I've been firing 'em. Mmm.

PAINE

Q. A little bit earlier I think you said it made you feel good to umm, use the rif, firearms, why did it make you feel good?

A. Ohh just exciting, just shooting at targets. I dunno, just having something, having a firearm.

Q. Did you ever shoot at game?

A. Never, never, never came to my mind to.

WARREN

Q. Do you like animals?

A. Yeah, love animals.

Q. Mmm. So that's the reason why you wouldn't.

A. I've been brought up with animals.

Q. Sorry?

A. I've been brought up with animals.

Q. Mmm. And that's the reason why you wouldn't shoot them, is that right?

A. Mmm, that's right.

Q. Do you remember ahh, that morning you went down to Roaring Beach, buying a cigarette lighter form a shop?

A. No, I can't. Which shop is that?

Q. Midway Point.

A. Not at all, not at all, I didn't stop at Midway Point.

Q. Are you sure about that?

A. Definitely.

Q. How can you be definite about it?

A. I don't know but I didn't stop at Midway Point. I remember stopping at the bakery at Sorell.

Q. Sorell. You didn't buy a lighter there?

A. No.

Q. What about fire lighters?

A. Fire lighters. Ohh, got them in me house, got 'em stored up in the house, quite a few, but.

Q. What for?

A. To start a fire.

PAINE

Q. Did you have any in your car that day?

A. No, not at all.

WARREN

Q. Are you sure about that?

A. Yeah, positive.

PAINE

Q. Do you remember stopping at the Forcett shop?

A. Forcett Shop, umm, no I don't. I used to stop there now and then to get a coffee but that's about it.

Q. When you went down that day, did you call into Eagle Hawk Neck, you know the Blowhole or anything like that, that day?

A. No.

Q. To have a look on the way?

A. No.

Q. No.

A. Drove past all them.

WARREN

Q. You don't remember ahh, talking to anyone on the side of the road for instance or?

A. No, I can't recall talking to anyone.

Q. You don't remember going into the Port Arthur site, that's what you said before?

A. No I don't.

Q. At all?

A. At all.

Q. When do you reckon you were there last?

A. Mmm, quite a number of years.

Q. You sure?

A. Yeah. Mmm.

PAINE

Q. Could we cover that bit about umm, Seascape again where I asked you umm, did your family ever want to buy it. Could you go over that again for me please Martin?

A. I never wanted to buy Seascape.

Q. No, I think, didn't you say your father had expressed an interest?

A. Not on Seascape, but the farm, back in '78.

Q. That was the farm in Palmers Lookout Road?

A. Mmm, the Martins owned that.

Q. Right.

A. Still do. Mmm.

WARREN

Q. How, you, you mentioned earlier on when we first started talking about how long it was that you'd, how long ago it was that you'd seen the Martins ahh, and it was what, when you were a teenager was it?

A. Yeah.

Q. Yeah and you haven't had anything to do with them since basically?

A. No. You mean the sons or the?

Q. No, Mr and, Mr and Mrs Martin?

A. No, ... inaudible ...

Q. But you haven't either, you haven't seen the boys either have you for a while?

A. No, not at all. I haven't seen Darren since I was about this high but I've seen Glen obviously, about four months ago at the ... inaudible ...

Q. Can you remember when the Martins, that Mr and Mrs Martin, ahh, bought Seascape?

A. Back in the '80s, middle, '84, '85 I think they bought it.

Q. Mmm.

A. Mmm.

Q. Did you go down there at all anytime after they'd bought it?

A. Ahh, this is the first time in my life that I've been down there to see them.

Q. What did you think about it?

A. I thought I'd call in and. Ohh I though it was great, having a host farm.

Q. Mmm.

A. Worked hard all their lives, renovating, took them years to build it, renovate it and to start it all up and it's just so sad to see, apparently it's burnt down, it's so sad to see it burnt down.

PAINE

Q. So you know Seascape's burnt down?

A. Yeah. Been informed.

Q. Who told you that?

A. A doctor, and security guards.

Q. What else have they told you?

A. They said.

Q. Could you speak up please.

A. They said that people had been burnt inside there. Mmm. So I don't know how many people were burnt inside the Seascope Guest House.

WARREN

Q. I'm just a little bit confused here Martin because you seem to know a little bit about or a fair bit about what's happened and what they've done to that place, now, how, how did you know that happened?

A. 'Cos when you used to drive past you could see, you, every few weeks, while my parents had a shack, you could see them working on the place, renovating the homestead.

Q. This is when you used to go down surfing?

A. No, no, this is when my parents had the shack.

Q. Right, okay.

PAINE

Q. When did your parents sell that shack?

A. About 1991, '92. So they were working on the, I think they opened up the guest house then but in the late '80s they were renovating. Took 'em, I think it took 'em five or six years to build it up.

Q. Martin, going back to the BMW as we were just talking about the Seascope and the car, why did you put the man in the boot?

A. Ohh because to take him hostage, I thought I'd get in less trouble if I got caught having him in the boot, but I don't know, I just thought, I was a bit worried that if he didn't go, he'd go off in my car.

Q. And why'd you think you'd be in less trouble?

A. I didn't, I didn't want to shoo... 'coz I wouldn't've got caught, probably wouldn't've got caught you see, he would've gone off in my car, rang the police straight away so I thought I'd take him hostage and let him go later after taking the car for a spin but and when I drove along, I thought I'd go down and see the Martins. Mmm.

Q. What trouble did you think you were in?

A. Ohh, it just came to me to take, take this car, get hold of this car and take it for a drive and it just felt good.

[PORTION MISSING]

WARREN

Q. Do you think.

A. It's possible.

Q. Do you think... inaudible...

A. That's all I've done wrong in my life. The only other thing was on the way home from Kingston, getting pulled up.

Q. Are you sort of saying that Terry Hill shouldn't've supplied you those firearms?

A. Ohh I don't know, he's a good man but, mmm. inaudible....

WARREN

Q. So are you blaming Terry Hill for what happened?

A. Well I'm not blaming anyone, it wasn't Terry Hill's fault, I got that one out of the paper, don't forget.

Q. True.

WARREN

Q. Mmm.

A. So they're available ...inaudible... advertise 'em. If they don't advertise 'em you wouldn't get 'em. It wouldn't've happened.

WARREN

Q. So.

A. I mean, it's alright for you guys but you're probably glad that it's happened 'cos it's a job.

Q. No, no, no.

WARREN

Q. We're not glad anything's happened like that Martin.

A. It's no good to me either 'cos I'm in here. inaudible.... That's all.

Q. Do you think that you're not shutting something out of your mind and not being completely open and honest with us here Martin about that day?

A. I'm honest.

Q. Yeah.

A. About everything.

Q. I just wondered whether you're not really wanting to tell us what you can remember.

A. No, no....inaudible....

PAINE

Q. We just have to let us have a short break for a moment please Martin.

A. Mmm, alright, yeah.

Inspectors PAINE and WARREN leave the room

(Inaudible background conversation)

Inspectors PAINE and WARREN reenter the room

WARREN

Q. Sorry about that MARTIN

A. That's alright.

Q. Bit of a technical malfunction.

A. I've had me Kentucky so I'm right.

Q. Had your Kentucky. Martin just, just to remind you, you remember earlier when we first started talking that I, I warned you that you weren't obliged to say anything unless you wanted to.

A. Yeah.

Q. If I just remind you of that and you're well aware of that and understand that you don't have to say anything if you don't want to.

A. No that's fine.

Q. Okay. Just so that you understand, that's all. It's a fair while since we started talking with you.

WARREN

Q. Martin, on the day you went to Roaring Beach at Port Arthur, Seascope, did you take your camera with you, a movie camera?

A. Did I take a movie camera, no I didn't take a movie camera but I have got a movie camera.

Q. You have got and I suppose you've used 'em when you've been overseas?

A. No, it's only a small camera.

Q. Small camera. Are you a good photographer?

A. Yeah, good photographer, yeah. Yeah.

Q. Are you aware of a you know, seasonal problem with wasps at Port Arthur?

A. Seasonal problems. Umm, not at all, not at all. Wasps?

Q. Wasps, yeah.

A. No.

Q. Well have you got any other ...

A. I'm allergic.

Q. ... Understanding of the term wasps?

A. No, but I know that I'm allergic to bees, I nearly died when I was eleven years old.

Q. Did you?

A. The sting, neck swelled right up and just lucky I got to the doctor's in time. Mmm.

Q. Have you ever been to Japan?

A. No never.

Q. But.

A. I'd like to go, 'cos the people are very polite and.

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Q. Mmm.

A. Mmm.

Q. Just umm, before we go any further, I'll just, you mentioned the Ben Morrisson case earlier ahh, did that in anyway affect your judgement in relation to taking that hostage?

A. No, not at all. I didn't really want to take him, it's only 'cos I didn't want him going straight to the Police, that's the reason I took him hostage.

Q. Right, so the Ben Morrisson case had nothing whatsoever to do with your judgement?

A. Ohh no, not at all.

WARREN

Q. So.

A. It's only 'cos I remember you being involved with it, and coming out of the Court with the parents and, and being on television.

WARREN

Q. Mmm.

A. A couple of times. It was good, I thought you done a good job.

WARREN

Q. Martin, getting back to that point about the hostage, you taking the hostage because you didn't want him telling the Police. What didn't you want him telling the Police.

A. That I took his umm, car.

Q. But I mean, if you'd have left him on the side of the road, he wouldn't have known where you could've driven.

A. Yeah but he could've let them know that there was a chap with blonde hair, took me car, stole me car. So I sort of put him in the boot to be safe.

Q. So you thought your looks that day were distinctive and if someone said they saw a chap with blonde hair.

A. Mmm.

WARREN

Q. At Port Arthur on that particular day.

A. What happened at Port Arthur.

Q. Well you're saying to us that you didn't go to Port Arthur did you?

A. No I didn't.

Q. And you're quite definite?

A. I didn't go, definitely didn't go to Port Arthur.

Q. Well what would you say if ...

A. I wouldn't, I wouldn't pay the money to go in. I would, I would've if I didn't have to pay money.

Q. Well what would you say if I told you that you were seen going into Port Arthur and in fact you were at the toll gate?

A. I couldn't've been.

WARREN

Q. And more than that, that you did complain about the price of admission.

A. Umm, I don't remember going in, into Port Arthur or going through the toll gate at all.

Q. Well as you said a minute ago, you, your description of the long blonde hair does make you umm, stand out from the crowd.

A. Mmm, exactly.

WARREN

Q. What about your yellow Volvo?

A. That would wouldn't it, that would stand out.

PAINE

Q. Yeah.

A. I had me surfboard on top of it. Mmm, I drove straight past.

Q. Well.

A. inaudible

Q. We have lots of people who are telling us that they saw you at Port Arthur and your car.

A. Well it must've been another, there's other Volvos ...

WARREN

Q. With surfboards on the top?

PAINE

Q. With someone with long blonde hair driving them or getting out of them?

A. There's not many with surfboards on top.

WARREN

Q. You don't recall ahh, someone in, in Port Arthur, when you pulled your car up, talking to you about you're not allowed to park your car where you put it?

A. No, not at all.

Q. Is it possible that you could've been in there do you think?

A. Definitely not possible.

Q. Why do you say that?

A. 'Cos I remember driving straight past.

Q. Mmm.

A. ... inaudible ... Martin Bryant

Q. Martin, what if I said to you that ahh, neither Inspector Paine or myself believe what you're saying to us?

A. You don't believe one little thing.

Q. No, but we don't believe that you're, what you're telling us now about not being at Port Arthur.

A. Mmm, all I can say is ... inaudible...

Q. Why do you think ...

A. inaudible

Q. ... Why do you think we would not believe you?

A. I don't, I don't really know. Can't understand.

PAINE

Q. Martin, I want you to have a look at this photo. It's photo number zero one one two. In it is a car I believe to be yours and it's depicted adjacent to the toll booth.

A. Couldn't be mine, where'd you get that. I don't remember being stationary ... inaudible ...

Q. Do you agree that that could be a surfboard on the top?

A. Yes I think it probably is.

Q. And it's certainly similar to your ahh, your car?

A. Mmm.

Q. The registration number of this vehicle I think is CG two eight three five.

A. I don't remember the registration.

WARREN

Q. Well that's your car.

PAINE

Q. So that certainly suggests it because that's the exit road at the toll booth, that your car had been.

A. How could the car be there when I didn't go, go there in the first place. inaudible ...

Q. As I said, sorry, as I've said, we have, there are lots of people saying that they saw you in the Port Arthur site and your car in the Port Arthur site.

A. Mmm, I can't recall that.

Q. Did you go to the Broad Arrow Cafe?

A. The last time I've been into the Broad Arrow Cafe was about, I can't recall, must've been two or three years ago.

Q. Once again.

A. 'Cos I haven't been, I haven't been, I haven't taken any of my girlfriends down there. Not at all.

WARREN

Q. Do you remember going there about, about the end of March this year?

A. No, no, no. Was I there in March or what?

Q. Well I'm asking you.

A. No.

PAINE

Q. Once again, lots of people are saying they saw you in the Broad Arrow Cafe on Sunday the 28th of April.

A. Mmm, that's untrue.

WARREN

Q. It's untrue is it?

A. Mmm.

Q. And why do you say that Martin?

A. Because I didn't, I drove straight past.

Q. So how do you account for the car being there?

A. That lady could've drove it down there. That one, the wife or girlfriend of the chap I took hostage 'cos I said to get into my, the Volvo.

PAINÉ

Q. Martin.

A. Mmm. Like I was telling you before, it's, it's true.

Q. I believe that you umm, took the BMW near the toll booth, not on the highway.

A. ... inaudible ... I wasn't there that afternoon.

Q. And what's more, I can tell you we have spoken to the people that say the car was taken from the toll booth area.

A. It's not true.

Q. Not true?

A. Must've been someone else ... inaudible ...

WARREN

Q. How many people were in the BMW?

A. Ahh there was a lady, I don't recall if it's a boy or girl, and a man, there's three people altogether.

Q. Couldn't've been four?

A. No definitely three.

Q. Definitely three.

A. Mmm.

Q. How many women did you see?

A. In the BMW?

Q. Mmm.

A. There was the lady and the child, I forget whether the child was a boy or a girl.

PAINÉ

Q. Martin, I believe you went to the Broad Arrow Cafe at Port Arthur on Sunday the 28th.

A. That's nonsense. Like I said I didn't go to Port Arthur.

WARREN

Q. See you, you've been pretty good with your memory really and a lot of things that we've been talking to you about, some things you're not recollecting, but you're very very definite now that you weren't at Port Arthur on that day.

A. Probably because I've got a reasonably good memory.

Q. You've got a reasonably good memory.

A. I would've definitely told you if I, if I went into Port Arthur 'cos Port Arthur attracts a lot of crowds.

Q. Do you like going to places where there's a lot of people?

A. Ohh, all depends who I'm with and ...

Q. Mmm.

A. ... What, what's going on that day and whatever.

Q. What ahh, would you say if I said that someone's identified you having a meal at the Broad Arrow Cafe?

A. Having a meal? I had a toasted sandwich at Nubeena and that was it.

PAINÉ

Q. Martin, you haven't asked Mr Warren where the lady with the, with whose death you've been charged, was.

WARREN

A. Yeah it was a lady, you, you said that the lady's name, you told me.

Q. Where was she?

A. Umm, I really don't know. That's like I said to you earlier, it was the chap that I took hostage and I reckon he was the one that died.

Q. You reckon.

A. On the murder count.

Q. Just have a bit of a think about it, about this particular lady. You've already been charged with her murder okay, just have a bit of a think about it for a minute. Thinking about it?

A. No, I'm thinking what this is, what this is.

Q. I'd like you to have a look at this photo. It's numbered zero zero nine zero. Okay. It's a white Toyota Corolla.

A. I drove straight past that day and I just drove past there.

Q. What about this car?

A. Is there a person in it.

Q. You haven't seen that car before?

A. No never.

Q. Right.

A. Drove straight past that shop that day, that Sunday.

Q. Martin, quite frankly I find it very hard to believe what you're telling me.

A. Well it's your word, I mean how come you don't believe me?

Q. Well Inspector Paine mentioned it to you just a very short time ago, we've been speaking to a lot of people.

A. Mmm.

Q. Who have identified a person answering your description at Port Arthur, at the Broad Arrow Cafe.

A. Mmm.

Q. At the toll booth. On the road on the way to the toll booth and also at the service station where that Toyota Corolla was. And bearing in mind that your car, registered to you ...

A. Mmm.

Q. ... Was also there at the toll booth and you're telling us that you weren't anywhere near it.

A. That's right, I drove straight past, so.

Q. So how, how do you expect us to believe what you're telling us. Doesn't add up does it. Doesn't make any sense.

A. It's silly, I mean, I wouldn't drive into Port Arthur on that day so. I drove straight past Port Arthur that day.

Q. Well you did, you did a month earlier. Drove into Port Arthur. And you were seen.

A. I did not.

Q. You were seen in there.

A. Did not.

Q. Do you know what's happened on that day?

A. What's happened on that day.

Q. On the 28th of April?

A. No.

Q. You don't?

A. No.

Q. Are you sure about that?

A. Positive.

Q. Positive.

A. Yep.

Q. Well I'll tell you what's happened. There have been twenty people in that Broad Arrow Cafe.

A. Mmm.

Q. Who were shot and, and killed and there were a lot of others injured.

A. Right.

Q. There were also a number of people in the car park were killed as a result of being shot. There were four people that were taken out of that BMW who were shot and killed. There were two children and their mother on the way to the toll booth.

A. Ohh God, it's awful isn't it.

Q. And a girl in that white Toyota Corolla that I just showed you. And we believe you're responsible.

A. You reckon I'm responsible.

Q. Well we believe you're responsible.

A. I only went surfing that day so.

Q. Well what have you got to say about that?

A. Well who's responsible.

Q. You are.

A. How many people died altogether that?

Q. Including the people at Seascope.

A. Mmm.

Q. Thirty five.

A. How many other people injured? Many?

Q. Well I.

A. How many ... inaudible... a dozen.

PAINÉ

Q. Approximately twenty.

A. Approximately twenty. What seriously or not?

Q. Some more serious than others but they're all okay.

A. This is, I can't believe this.

WARREN

Q. And those firearms of yours, the three O eight and the two two three.

A. No, that shotgun and the little Colt AR15 ...inaudible... I don't know about the others.

PAINÉ

Q. Martin, we have spoken to over six hundred people.

A. Mmm.

Q. A lot of them were at Port Arthur.

A. Ohh. I mean I would've said if, that I, I've, I mean, don't you believe me what I'm telling you about them guns.

I've never seen them other guns before in my life.

WARREN

Q. ...inaudible... you said you had those three.

A. Yeah.

Q. The three O eight, the two two three and the shotgun with you on that day?

A. I, I had two guns with me, I took for target practising. I took the shotgun and the little other gun, the Colt. And I, I must've got that burnt that little, little one in the middle.

Q. How do you reckon that got burnt?

A. Striking a match, a match. Why did I stop.

PAINÉ

Q. Where was that petrol.

A. 'Cos I mean that, that wasn't ...inaudible...

Q. Where was the petrol.

A. Would've saved you a lot of time if I'd been blown up with the hostage.

WARREN

Q. We've got, we've got all the time in the world Martin. It's ahh.

A. Obviously I have too, so what does it matter.

Q. What, what matters is we'd like to know why you've done, what you've done mate, it's simple.

A. What have I done I mean, I know I've done the wrong.

Q. I've just told, I've just told you what you've done.

A. I've done, I've done the wrong thing by stealing the car.

Q. Are you understanding what I just said to you? 'Cos I've told you what you have done.

A. What have I done?

Q. You've killed thirty five people.

A. Ohh ... inaudible ...

PAINÉ

Q. And injured several others. Martin, it's not Mr Warren and I are saying this. We, as I said to you, we've interviewed a lot of people.

A. Mmm.

A. And a lot of people have identified a person with your description driving your car, killing those thirty five people.

A. Well all I can say is about ...inaudible ... to Port Arthur. All I know is other people have said to me, asked a couple of times whether I was at Port Arthur and I've said no because I wasn't there at Port Arthur that day.

Q. Martin.

A. I drove, drove past the Port Arthur turn off.

Q. Well we, we don't believe that.

A. Well how come.

Q. We believe you went into Port Arthur. Had a slight argument with the toll gate person about the price on entry. We believe you then went to park your car and an attendant or someone ...

A. Park the car.

Q. ... Said you couldn't park in a certain spot, so you didn't and sometime later you did move your car to that spot. We believe you went to the Broad Arrow Cafe with that bag over there, containing some guns and your video camera. You purchased a meal, you went outside, sat down, and then went back into the cafe. Took one.

A. But you might've. That's like me saying to you, that you were down there.

Q. But the difference is Martin, my car wasn't down there and I haven't been identified as being down there and I wasn't down there. And then you took one of the guns out of your bag and opened fire in the cafe.

A. Why would I do that, I mean.

Q. I don't know, you tell me.

A. Why, why would anyone do a thing like that, what.

Q. Well you tell us.

A. ... inaudible ...

WARREN

Q. That's what we want to know Martin, why.

A. What, what, would, I wouldn't hurt a person in my life.

Q. Well you've already said you'd put the man in your boot of the car.

A. Only, yes, yes.

Q. Then you've set fire to the car and you thought that he was in the boot.

A. ... inaudible ...

Q. So how do you explain that?

A. It was a bad thing.

Q. Well it was a bad thing.

A. But I got burnt too so, that doesn't worry you I suppose.

PAINE

Q. Well it does.

WARREN

Q. Of course it worries us.

A. Well that's all I can recall. That's all I know. I've got a pretty clear mind.

PAINE

Q. And then.

A. I definitely wasn't there at Port Arthur that Sunday or a month before.

Q. After opening fire in the cafe and walking through the cafe, you left the cafe and went down near the bus park, shooting, shooting several people. Then you got in your car and drove back towards the toll booth. Before reaching the toll booth, you stopped and shot dead a lady and two small children.

A. Go on.

Q. Then you got to the toll booth, to the position we showed you your car was in, in that photo.

A. Mmm.

Q. Took the BMW, shooting the occupants.

A. Must've been, I told, the BMW was back there at the Fortesque Bay turnoff.

Q. No, the BMW wasn't there.

A. Was it the same colour BMW?

Q. Yes. Shooting the four occupants. Then driving to the service station near the white Corolla that was in that photo. Forcing the person into the boot of the BMW as you've described and shooting the person that was still in the Corolla and then driving to Seascapes.

A. Did that person, did that person die did you say?

Q. Yes.

A. Mmm.

Q. At Seascapes before driving down the driveway, we believe you shot at several cars driving past. Then you went down to Seascapes.

A. I didn't shoot anyone.

WARREN

Q. You didn't shoot anyone?

A. No, not at all. And you reckon you've got dozens of witnesses.

Q. Certainly have.

A. Where are they?

Q. Where are they?

A. Mmm, the witness. Have you got any other photos to show me?

Q. Well do you ...

PAINÉ

Q. ... Do you want to see the photos?

WARREN

Q. Do you want to see the photo's?

A. Of the witnesses if you've got them.

PAINÉ

Q. Well we haven't got any photo's of the witnesses. Obviously the witnesses are not here today. But I have a couple of statements made by witnesses I can quote.

A. I do like looking at photo's. Have you got other photo's to show me?

Q. What do you want to see the photo's for Martin?

A. Whatever they, I don't know.

WARREN

Q. They're not very pleasant.

A. Aren't they ... inaudible ... I don't like ... inaudible.. I like watching videos ... inaudible ...

Q. You have?

A. Mmm.

Q. Do you like horror videos do you?

A. Ohh some of 'em. Sometimes they're okay, there's some good actors in 'em.

PAINÉ

Q. What's your favourite one?

A. Steven Segal in it, umm.

Q. The one on the boat?

A. He was the Karate Kid, he was in Karate Kid II, did you see that one did you?

Q. No.

A. Mmm. Well what, Under Seige, yeah. Watched that heaps of times, over and over again.

Q. Mmm.

A. Mmm.

WARREN

Q. You're in a little bit of trouble Martin aren't you? Would you say?

A. I dunno, I spose I am. I'd like to get, get hold of some bail money.

PAINÉ

Q. There's no chance of that.

A. No chance at all.

Q. No chance of bail.

A. That's what I was, the Magistrate Mr Hill, appeal ... inaudible ... last month. He said, are you Mr Martin Bryant. I said, yes. He said, you're remanded in custody till this ... inaudible ... I didn't even come to the hearing, okay 'cos I wasn't well ... inaudible... I should see me solicitor about bail.

WARREN

Q. What did you think ahh, the night that you were in hospital and I said you were being charged with the murder of ahh, that girl?

A. Bit shocked, mmm.

Q. Have you given it, have you given it a lot of thought since?

A. I just, want, I'd love to just get out of here now. Live a norm, a normal life. Will I be allowed to do that?

PAINÉ

Q. Well that's not a question for us. What do you think your chances of that are?

A. Ohh.

Q. After hearing what we've said.

A. Well, I shouldn't have gone and kidnapped him and the BMW. It's the wrong thing. That and, that and in the, being caught with not having a driver's licence. So they're the two things I've done wrong. I don't know why I stole the BMW in the first place. I wish I'd ... inaudible...

WARREN

Q. Do you remember, do you remember telling me that you were being unjustly accused in the hospital that time, after I said you had been charged with murder?

A. No.

Q. You don't remember that? Well it's surprising because your memory has been pretty good about that. You can't recall that?

A. Don't recall that at all.

PAINE

Q. Could it be that you don't want to remember it Martin?

A. No, I can recall you saying that when I woke, woke up, all you said was you're on one count of murder Mr Bryant. I said, what, who have I murdered ...inaudible ...

Q. Could it be Martin that you ahh, don't want to remember the events at Port Arthur on that day?

A. I, like I said I haven't been to Port Arthur this year so. It's true. I've got to tell the truth.

WARREN

Q. And where do you think that leaves us?

A. Well you've got ... inaudible ...

Q. Well bearing in mind what we've been told by many many people, what we've seen and having spoken to you, how do you think we feel about this?

A. It's your job, you probably feel pretty good about.

Q. Why do you say that?

A. I dunno, just.

Q. I can tell you, I don't feel very good about this at all.

A. Don't you.

Q. No.

PAINE

Q. Neither do I.

WARREN

Q. Aah, both Inspector Paine and myself and many many other people have been very badly affected by it.

A. Mmm.

Q. What do you think of that?

A. It's sad isn't it.

PAINE

Q. And so have you of course

A. Ohh yeah.

WARREN

Q. You're a victim yourself aren't you?

A. Mmm. I'm a victim.

Q. Well do you think you are? I mean I've made the statement.

A. Ohh.

Q. But you, do you think you're a victim?

A. No ... inaudible ...

PAINE

Q. Do you think people should take responsibility for their actions Martin?

A. ... inaudible ... responsibility?

WARREN

Q. Well.

PAINE

Q. I mean do you think that people should accept the consequences of what they do?

A. Yeah I do. I s'pose I should for a little while for what I've done. Just a little while and let me out, let me live my own life. I'm missing my Mum. I really miss her actually, what she cooks up for me, her rabbit stews and everything. She's not even allowed to bring a little bit of food for me, that, that's a bit upsetting. Mmm.

PAINE

Q. Martin, unless there's anything else that you want to tell us, we're going to ahh, stop the interview now. As Mr Warren explained to you, this is the last opportunity you'll have to speak to us. You'll be at your next court appearance, charged with twenty murders, I'm sorry, thirty five murders and ...

A. Just that.

Q. ... And approximately twenty attempted murders and several wounding charges as well.

A. Attempted murders.

Q. And also.

A. You mean attempted, they weren't hurt?

Q. Ahh, yes they were hurt. Some of those people. You'll also be charged with the arson of Seascope. Do you understand all that?

A. How months will it get me in?

Q. Well that's not a, a question I can answer.

A. And the arson of the BMW.

Q. No, of the Seascope. We believe you burnt Seascope as well as the BMW. I hope we've explained things clearly and you understand the gravity of the situation.

A. It's great to have someone to talk to. And you guys won't be in again?

Q. No.

A. To have a talk.

Q. No.

A. I'll miss ya's.

Q. Now what's going to happen now, after we cancel, finish the interview, you'll be introduced to a senior police officer who will ask you ahh, several questions about the interview procedure.

A. Now or?

Q. Yeah in about, in a couple of moments.

A. Might even bring me tea in here.

Q. Well I'm sorry, we can't give you any.

A. No.

Q. Kentucky Fried.

A. It's sad.

Q. Extremely sad.

WARREN

Q. Certainly is Martin.

A. Especially the ones that were injured. So how many were injured?

PAINE

Q. About twenty. Some not ...

A. Plus, yeah some.

Q. ... Some not seriously, some more serious than others obviously.

A. That's what I ... inaudible...

Q. I might add, with all the people that were shot, were either shot with those two weapons closest to us over there, your weapons.

A. Yeah ... No, not the one with the scope, I don't know that, never seen that one before. Mmm. I'm not signing anything.

Q. Mr O'Garey will deal with that.

A. Not until me lawyer sees me. I'm sure you'll find the person who caused all this. Me.

Q. I don't find that a very funny statement at all Martin, to be quite honest.

A. You should've put that on recording.

Q. Ohh it's still recording at this present stage. So that is on recording.

WARREN

Q. Like I said to you before Martin, ahh, like I said before mate, umm, we are looking at the person responsible.

PAINE

Q. I'll go and get Superintendent O'Garey.

A. I must need a lawyer then ... inaudible ...

WARREN

Q. You tell me.

A. ... inaudible ...

Q. We'd really like to know why mate because you know, I mean, it's ... inaudible ..

A. I'd really love to help you out ... inaudible ... but I can't. Have you had other trouble like this, dramatic?

Q. Not on this scale, no.

A. No. Spose it happens, doesn't it.

THE COURT RESUMED AT 2.15 PM.

HIS HONOUR: Mr Bugg?

MR BUGG: Thank you, your Honour.

Your Honour, during the luncheon adjournment I tried to seek some authority to perhaps deal with the issues or consider the issues that your Honour raised first thing this morning.

HIS HONOUR: Yes.

MR BUGG: The section 11 of our Code is almost identical in terms to similar sections under the Griffith Codes in Queensland and Western Australia. I first of all sought some support through authority from Queensland and I can give your Honour the references but unfortunately the factual situations which were being considered by the appellate courts under their section 16 really involved by way of illustration, for example, the situation where a person had been convicted of selling alcohol to a minor and then was later charged with keep licensed premises open for trading and of course the appellate courts were saying well look these are quite different situations. I will give your Honour those references now if you like. The first is in The Queensland Weekly Notes of 1920, it's decision No. 5—

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Decision number 25 R. v. Sammon. The next decision is one of the Court of Criminal Appeal in Queensland in 1975 Q.R. page 301. That's R. v. GORDON ex parte The Attorney General. And finally I refer your Honour to The Queen v. Kiripatea reported in 1991 2Q.R. page 686. What is interesting about that decision is that the Court of Criminal Appeal in Queensland found that a person who had been convicted of mutiny under the Corrective Services Act, an element of which his escape from prison, when convicted of escape and not sentenced for that crime was found to be not in a position which infringed the equivalent section under the Queensland Code. In other words under our Code, where the Section speaks of punishment, the Court of Criminal Appeal in Queensland has said that a conviction does not constitute shall we say an infringement of that prohibition.

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- but, Your Honour, just at the last moment I 'phoned Western Australia and there found reported in 1992/4 Volume 10 of the WA Reports at page 169 the case of PHILLIPS v. CARBONE No. 2 and there the issue under consideration was effectively the factual proposition that I'd intended to put to your Honour in submissions in the event that I could find no authority. And in that case the defendant had driven a motor vehicle into a stationary vehicle and simultaneously injured two occupants in that stationary vehicle and he was convicted on two separate counts of dangerous driving causing bodily harm and he was sentenced on one count but the magistrate held that he was protected from punishment on the other count by reason of Section 16 of the Criminal Code – which, as I said, is the Western Australian equivalent of our Section 11. I notice Mr Mace now has the report there for your Honour – if I could take you – and I haven't read the full text of the judgement in the time available, your Honour, but I do take you to page 174

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from the judgement of the presiding judge Acting Chief Justice Pidgeon where on the third paragraph of that page he starts "Section 16 in the form as it was considered in Cutler" and go on from there, I won't read the section of the judgement out to your Honour.

If I could take you to the judgement of Nicholson J. at page 182 at line 10, commencing with the paragraph “Applying the views which I have reached which I consider are supported by the approaches of the courts in Cutler v. Gibson I reached the conclusion that section 16 requires me” et cetera.

HIS HONOUR: There doesn’t seem to be any reference to Vallance’s case here.

MR BUGG QC: No, there isn’t. There usually isn’t when you move outside Tasmania, I’m sorry your Honour.

HIS HONOUR: Vallance makes it clear the majority decision that the act in section 13 as opposed to section 11 is the physical act and doesn’t include the consequence. And indeed that would seem to be the concept of act in section 11 because they’re talking about the possibility of an act causing two separate results, namely something short of death and death if it subsequently occurs. So the act or omission, it would seem to me, would be the physical act and not all the external elements which would make up the offence in question.

MR BUGG QC: I certainly read that exception in the last few lines of section 11 as referring to the situation where someone has for instance wounded a person who later dies.

HIS HONOUR: Yes. But it is interesting that it says “if any person dies” not “if the complainant dies” or
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The person who has been injured in the first offence.

MR BUGG QC: I certainly didn’t read that extended meaning into it, your Honour, and certainly my learned junior and I were discussing the matter just before your Honour came in, and certainly in the judgements of the High Court they of course refer to the meaning of the word “act” and say that it has different meanings in different sections of the Criminal Code and they didn’t specifically address section 11 as far as that was concerned. It would seem to me to be an inconsistency, your Honour, where the foreseeability of a consequence such as the ongoing passage of a powerful bullet of a fragmentation from – sorry, a powerfully driven bullet or the fragmentation from a powerfully driven bullet and if those consequences were foreseeable that a person could escape criminal responsibility whereas you can have in this State and certainly I can’t cite any appellate authority for you because section 11 has only been referred to once in this Court or in the Court of Criminal Appeal and that was by your Honour in Causby’s case in 1984.

HIS HONOUR: Yes, that was only very much in passing.

MR BUGG QC: And it was only in passing, if at all in obiter. Your Honour, I would submit that relying upon Phillips v. Carbone that the position as formulated within the indictment satisfies –

HIS HONOUR: So that’s both in relation to the two counts of murder where one bullet achieved the same results and also to the fragmentation wounding?

MR BUGG QC: The wounding proceeding from fragmentation.

HIS HONOUR: Yes.

MR BUGG QC: And, your Honour, in so far as that

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Is concerned I would, if your Honour is against me on that, and I don’t seek to have the matter resolved certainly before I proceed further this afternoon, but I would then, shall we say as a fall back position, rely upon the Court of Criminal Appeal’s decision in Queensland in Kirapatayer (?)

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HIS HONOUR: Yes, there's a discussion about a similar, another Section, which on its face appears to have marked similarities to our Section 11, but which in fact does contain quite significant differences which are relied upon by the Court of Appeal in England in the case of Thomas which is a 1949 case, I think it's 32 C.A.R. which I was looking at in other Chambers and couldn't find it in the set of Chambers over here, but they made the very strong point in that case, which was a Common Law case, that the Section in question, the Acts Interpretation Act of the United Kingdom was referring to not being punished for the same offence as opposed to act. Now they are the very words that we use in our Section, and so I'd like to see the wording of both Griffith Codes, West Australia and Queensland, before necessarily following the Supreme Court of Western Australia if their wording is different.

MR BUGG QC: Yes. Your Honour insofar as that is concerned you will find that Chief Justice Hanger in Gordon's case in Queensland, the reference to which I gave you, considers Thomas's case in the second page of his judgement on page 303, and after referring to the relevant passage from the judgement of Justice Humphries the learned Chief Justice in Queensland says "That the law in Queensland is different is made clear by the assertion in Section 16" so seeking to differentiate between them.

HIS HONOUR: Yes, looks as though the Queensland Act might very well be the same as our Code.

MR BUGG QC: Yes. And your Honour I'm sorry I don't have the, all the detail for that available to you, but I do also refer you to the consolidation of the statutes with the annotated Section of the Criminal Code in 1932 where in fact Section 32 of the Acts Interpretation Act, our Acts Interpretation Act, is also referred

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to in that annotation. But I can't take the matter any further your Honour and rely on the submission I have made to you.

HIS HONOUR: Yes. Well I wonder if you could just identify the fragmentation counts, not necessarily now, perhaps Mr Perks could do so. That's to say where on the Crown case the bullet that caused the wounding has already been the subject matter of some prior count. I mean if there is no challenge from the Defence that some other bullet caused the - fragmented in some different way by striking something, some body or some object, which is not the subject to a count, well if there is no challenge from the Defence I'm not troubled by that. But it is really only where the Crown has told me that the act of firing one particular bullet has caused two results. That's where I'm troubled so if Mr Perks perhaps could identify those for me I would be grateful.

MR BUGG QC: Thank you your Honour.

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MR BUGG QC: Yes, thank you your Honour. As I foreshadowed on day 1 I would, after the conclusion of the playing of the video recorded interview, make some submissions to you. Firstly in relation to the question of the impact of the crime upon victims and then, secondly to provide you with some background information and a psychiatric report prepared at my request by Dr Sale, together with an update in relation to that. Your Honour, I do make these submissions to you in accordance with the requirements of Section 13, or Clause 13 of the Charter of Victim's rights, which provides victims of crime with the right to have the full effects of the crime upon him or her made known to the sentencing court by the prosecutor in matters relating to offences involving personal violence and there is a very broad definition of 'victim' under that Charter:

HIS HONOUR: Well, what is the status of this Charter, Mr Bugg?

MR BUGG QC: It has been adopted by the State Government, by successive State Governments, and –

HIS HONOUR: Well, your authority to address on this is really under the Code, isn't it?

MR BUGG QC: It certainly is under the Code but –

HIS HONOUR: Certainly if the government has adopted it, a Charter of this kind, then provided it's authorised by the Code I will gladly hear what you have got to say about it.

MR BUGG QC: Yes, well, I would submit that the very broad, I think that it is Section 386, provides-
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HIS HONOUR: Yes, but I think that is the Charter with which I have to work.

MR BUGG QC: Yes. Well, I merely identify that certainly as a basis for a broad public expectation that victims of crime have certain entitlements under that Charter.

HIS HONOUR: Yes.

MR BUGG QC: Your Honour, the grief and anguish that is experienced following the sudden and unexpected loss of a life's companion or a lover, a parent, a child or a cherished friend is a human emotion which requires not explanation and in times of strife or human conflict or even natural disaster we tend to accept loss of life or significant personal injury as one of the exigencies of the environment or times within which we live. There is no every day experience which can condition the human psyche for a violent assault upon it of the proportions of Martin Bryant's senseless criminal behaviour on the 28th April, 1996. In a situation such as this I would even go so far as to submit that a detailed analysis in a subjective sense of the impact of this man's callous conduct upon his victims is unlikely to increase the ultimate sentence which I submit your Honour should be moved to impose upon him. But it is important that a general overview of the impact of this man's crimes upon his victims be given, not only to properly record in a general sense the impact of crimes, but also to provide the victims with an opportunity to have the impact of that crime and their reason to it made known to this court.

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Understandably there is such a mixture of human emotion in the responses provided as a response to an invitation I issued a week and a half ago, that it is impossible to individually deal with the response of each victim. There have been expressions of anger, sorrow, emotional and physical pain, a desire for retribution, an inescapable element of the sentencing process as far as this matter is concerned, despair in coping with the void caused by these crimes and a sense of hopelessness. Some people have dealt with their burdens with a fierce determination to survive and a will to prove ultimately that they have been the victor; others have, in the diverse complexity of human nature, been utterly devastated by the event and with help are bravely struggling to the surface; in the middle, we see people with steady dispositions and wonderfully strong family or support groups to lean upon when the need arises. To outsiders these people have survived and are coping. With some few exceptions, Mr Perks, Mr Craig Coad and I have probably spoken to most people directly affected by this horrible massacre. But as I said, your Honour, it would not be appropriate to go through individually in detail the impact of the crime on each individual victim because I have already identified perhaps two reasons why and one is it would be unfair to differentiate in my submission based on responses and seek to provide to the court some substantial differences and the reasons for them in the response to these criminal acts.

In dealing with the material which has been provided to my office, and that which has been gathered as well by staff within my office, I propose to break down the issues of impact under four general headings:

1. Impact to injured persons.
2. Impact upon those who have lost family members or friends.
3. Impact upon eye witnesses, and
4. the impact upon the broader community and the people directly involved in that broader community in dealing with this particular matter.

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Your Honour, I have listed, as has Mr Perks, those people who suffered significant physical injury as a result of direct gunshot or relayed gunshot on the 28th April. Those people have, in many instances, had to undergo a considerable number of surgical processes. They will never fully recover from the significant injuries which they have suffered as a result of this man's callous criminal conduct. Persons who suffered serious injury on that day were not only subjected to physical pain of the injury but also the anxiety and apprehension caused by the isolation of the site at which this incident occurred. Many waited in fear of death whilst appropriate arrangements were made to evacuate them from the area. These people experienced extreme levels of pain, anxiety and frustration and the responses of their companions can be equally understood.

When they were eventually evacuated they were separated from their companions and this only added to the anxiety of the latter. These people have also had to undergo as I said surgical procedures on many occasions and even now many of them are confronted with further operations and therapy.

Some of the persons who are the subject of the attempted murder charges have suffered significant physical impairment, loss of employment, or employment prospects, and certainly enjoyment of life. The impact of the crime upon injured persons also includes the need for ongoing counselling, experiencing extreme grief, sleeplessness, flashbacks, nightmares, anxiety attacks which can involve nausea, loss of balance, headaches and so on. Many have become socially withdrawn and suffer anxiety which when in public places particularly restaurants. The emotional impact on injured persons also includes feeling the loss of identity and suffering depression, sometimes to the point of having suicidal tendencies. For many their depression is exacerbated by both the pain and the limited mobility resulting from their physical injuries. And I should add that some of the people, and I know particularly having spoken to Miss Linda White, that the surgical procedures which have had to be undertaken to try and reconstruct the injury sites, and in her case her arm, has itself had a huge telling effect on the sound remainder of their bodies.

The social consequences for the victims who were injured at Port Arthur include feeling isolated and losing their sense of freedom in society, loss of self esteem, social insecurity, in some cases inability to drive motor vehicles and requiring assistance in performing what previously were for them every day tasks. Some have suffered severe financial loss due to inability to work and for many this incident has caused a significant reduction in their quality of life.

Dealing with those who lost family members or friends the nature of the impact of the crime on the families and friends of victims include emotional, social, physical and financial harm. The emotional impact ranges from sadness and disbelief to anger and bitterness to extreme grief, in some cases requiring hospitalisation, and further to depression which for some people extended to considering suicide.

some have been prescribed anti-depressant medication and sleeping tablets. The families of victims have expressed feelings of powerlessness and frustration, feelings of loss even for those surviving members whose lives have fallen apart. They have described their lives as being totally destroyed, feeling pain at seeing family members grieving and struggling to be strong and supportive to their loved ones. Many have suffered relationship breakdowns, many families and friends of victims have expressed that they have lost their direction in life and that they are reassessing their whole lives. Many complained of loneliness and of feeling trapped, many who were also at Port Arthur with their now deceased loved ones suffer from recurrent nightmares and flashbacks. This tragedy had also impacted upon people's social existence, some victims have said they feel isolated, that they have a feeling of not being loved, of being socially insecure, some to a point of describing themselves as agoraphobic. Some have difficulty in dealing with everyday tasks and find that they are easily prompted into a bout of uncontrollable crying and some have said that they experience feelings of guilt when enjoying life. Some members of families or friends of deceased now suffer from stress, feel emotionally exhausted and some of those still working have difficulty with concentration. Some have increased or started smoking and increased their alcohol consumption. Many families and friends of deceased victims are receiving ongoing counselling as well. Many of the deceased victims relatives needed to take time off work and for some that meant loss of their own income on top of loss of income from their deceased partners. Many have suffered financially as a result of the loss of income of a partner or a parent and in some cases a sibling or a son or a daughter. There are other obvious financial consequences for families of deceased victims, usually the cost of flying interstate to be with other family members or to attend funerals and so on.

Your Honour, it goes without saying that, obviously the conduct that we have described to you, particularly yesterday, would, when observed by any person, or, when committed in the presence, perhaps without the full awareness of many people, have had a significant impact upon those people. Just the realisation of how close they came themselves to suffering such violence in itself has had a shattering effect on many people. Many eyewitnesses to the events of April the 28th have since felt anger and bitterness, disbelief and powerlessness, some have even felt guilt at not being able to do more than they did on the day. And, of course, I hope that the playing of that video film

yesterday would allay some of those concerns. Many eyewitnesses now suffer from fear and anxiety attacks and feel socially insecure, many are particularly nervous, some even claustrophobic in crowds or public places such as shopping malls.

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Many eyewitnesses have suffered marital breakdowns or significant tensions within their family relationships and some have expressed suicidal tendencies as well. A common complaint is that they keep reliving the event and that is what haunts them. Many suffer from flashbacks and have trouble sleeping. Some witnesses have suffered from weight loss or even weight gain. Some have developed eating disorders. Many witnesses complain of tiredness and some people have experienced a reduction in their general physical health and some. As I've said previously in relation to another group, taken up smoking. Some have had problem with concentration and short term memory loss. It is not uncommon for witnesses to say that they lose their temper more readily than they used to. For some, violence has become a problem for them within their own homes and for others any sign of violence or even loud noise becomes extremely distressing. An illustration of that has been given by some witnesses as to their reaction to the sounds of helicopters. Many witnesses have become more security conscious and are aware of noises. Some have been concerned at driving and feeling isolated and many have said that as a result of this incident they have lost their trust in many people. Many witnesses expressed distress over their feeling of total lack of control at the time of the event.

The impact upon children has also been significant. Changes in results and performances at school have been observed for the worse.

In so far as the general community is concerned, your Honour, I propose to merely reply upon your Honour's own perception, having lived within this community during the past six months, as to the impact it has had in a global sense within this State but obviously, and it goes without saying, that the emergency services

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Personnel, ambulance, police officers, employees at Port Arthur Historic Site, hospital employees and people directly connected with dealing with this tragedy have all been subjected to a most unusual, even for their training, experience within their work and responsibility. For those people, some have suffered sleeplessness and other understandable responses to the stress of having had to maintain control and deal with this tragic event. Your Honour, I don't propose to go into any more detail than that, other than to refer you to a brief report that Doctor Ian Sale provided to me and I'll make a copy of that available to your Honour, dated the 13th November, 1996. I have made a copy available to my learned friend. That is a general summary of the responses of his practice to people, obviously in an anonymous way, who have attended his practice for assistance following this incident. I think it's only appropriate that I tender it to you in that form.

Your Honour, just before moving on, there was one passage from a written response which I proposed to just conclude this aspect of the Crown's presentation to you on and it is a response from one person who suffered the loss of loved ones at Port and that person concluded the letter I received in this term "I can but keep surviving to enshrine their spirit in the world. The incredible unconditional love, the warmth and freedom, the laughter, the dances, the spontaneity cuddling and kissing, they are no longer there. I will, however, proudly endeavour to keep their spirits alive throughout my life. My love for them will never die and can never be taken." And that is a response which many people who suffered the loss of loved ones have expressed to me as well, I might say.

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Your Honour, I told you that I would provide you with some background into the circumstances of Martin Bryant because obviously at this stage, there being no trial, your Honour has little information which would assist you in understanding the background of this man.

Perhaps if I start by making available to you the copy of a report which was obtained by me from Doctor Ian Sale dated the 6th August, 1996. I pass up a copy to your Honour, my learned friend already has had a copy of that report, as had his predecessor.

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Some of the background information contained in that report I was going to refer your Honour to in some detail from other material which I had gathered, but I think it's important that I just say, by way of outline, that Dr. Sale

sets out the basis upon which he claimed some understanding of Martin Bryant before he expressed the opinion. That's set out on page 1 in summary form where he says obviously he had been involved in advising the Police during hostage negotiation he had observed the video tape of Martin Bryant's interview, he had studied records available at Hospitals and educational institutions, and he had studied a large number of statements made to Police listed in his appendix and he had also conferred with a clinical psychologist. You will see later in the report that unfortunately the clinical psychologist was unable to complete her report due to effectively a lack of full co-operation from Martin Bryant. But it in the end is not a matter of great significance in so far as those matters which I wish to place before you relate to.

If I could just take your Honour to perhaps page 7 of the report, because really the interview material, would provide your Honour with the same understanding as you would have had from the Police interview. But, at page 7 he says that, "From the time that Bryant became mobile" that is as a young child "he seemed particularly active as he was a first child there was no immediate concerns, there being no basis for comparison. His speech development however was a concern to his parents and speech therapy assistance was obtained. His first school which he attended for just over a year was the Friends School and it was here that his behavioural problems became clearly evident and his stay at the school was brief. It was recommended that medical advice be sought. He was referred then to the Ellerslie Clinic, a guidance service, a child guidance service now replaced in function

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by Clare House, where he was seen by a Medical Practitioner and some form of medication was prescribed but gave only partial and temporary benefit. He was then placed on a diet which was thought at the time to be helpful to hyperactive children. His behaviour at school, and he then went to the New Town Primary School, continued to cause concern at the difficulties that were experienced then were restlessness and poor attention and disruptiveness in class, demanding of attention, poor relationships with his peers. It was noted that he really didn't have any playground friends at all. And he had a habit of behaving aggressively towards other children.

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---and certainly as a result of that there was poor scholastic performance. At the end, your Honour, of his primary school period he was faced once again at the Ellerslie Clinic for further assessment and there was a significant amount of assessment then undertaken.

He then moved into secondary school – and that's not referred to in the report but I am just detailing information that I have from other sources – and his, certainly in class performance improved as he moved towards his early teen years.

Your Honour, certainly as far as his family was concerned his father - well both his parents but particularly his father appear from all reports that have been obtained to have tried to do their best for him and insofar as that is concerned there was a fairly close relationship it would seem on all accounts between Bryant and his father and that, your Honour, relationship was terminated when Bryant's father took his own life, but I propose to just refer you to some other aspects of his background which would assist your Honour in perhaps understanding that when he left school at about age 15 his father tried to encourage him to take odd jobs in the New Town area – he then lived at Augusta Road – and he used to do some gardening for people, he would take vegetables around and try and sell them door to door and it was through that activity that he met Miss Harvey who owned the property in Clare Street that he was residing in at the time of this incident. He did odd jobs for her and gradually the association he had with her became a very friendly one where he continued to work on a fairly regular basis for her until she went to hospital with her mother who was gravely unwell. While she was in hospital, Bryant and his father tidied up the the house that they were living in quite substantially, that is, Miss Harvey and her mother, the property was somewhat of a state, Miss Harvey being described by many people who knew her

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As an oddly eccentric person. However, the association they seemed to have was one which in many respects kept Bryant under a level of control.

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The commencement of that friendship was in about 1986/87 and after that Bryant would be seen accompanying Miss Harvey and in many respects some of, perhaps, his rather strange attitudes towards money appear to have evolved at this time because one person interviewed by the police said that Miss Harvey would often attend the caryard at which this person was employed looking for a new car. She would often be accompanied by Bryant and

Bryant would usually indicate to Miss Harvey which vehicle he wanted to purchase by stating 'That's nice.', or, 'I'll have that one', and usually, then, Miss Harvey would purchase the vehicle. She was independently wealthy, being the recipient of a steady and substantial income from the Adams Estate Trust. On one occasion this person remembers the buying of a new vehicle at the beginning of the month and this was sometimes a practice she would follow when she found there was no money in the bank account to meet expenses – she'd just take the car in and sell it and then when the next month's income would come in, go and buy another car. On another occasion – and of course Bryant was with her when these events were occurring – the man illustrated occasions when, for instance, a new vehicle was purchased for twenty eight thousand dollars, it was shortly after reversed into a tree denting and scratching it, they, Bryant and Harvey, repaired the vehicle themselves utilising house paint and that vehicle was shortly thereafter sold for seven thousand dollars. Transport Tasmania records indicate that Miss Harvey owned in excess of fifty motor vehicles during the period of time that she was the registered owner of motor vehicles.

HIS HONOUR: Well, that covers a great deal longer period of time than the prisoner was associated with Miss Harvey,

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MR BUGG QC: It certainly does but there was certainly a frequent interchange of vehicles in the late seventies. In 1990 Miss Harvey went to hospital and that is when Mr. Bryant, and his son, Martin Bryant, assisted in cleaning up the property. When she came out of hospital she was really unable to cope and at that time she was 47 years of age and Bryant then moved in to live at Clare Street with her. In October, 1991 Bryant moved to Copping to the farming property that has been mentioned on a couple of occasions where he lived with Miss Harvey and operated in a strange sort of way from that property the – Your Honour, I'm going through some of this material because quite frankly there has been, in some instances, either a confusion as to chronology in the way in which some matters have been commented upon publicly and certainly in so far as some other matters are concerned. For instance, there was a suggestion that during his younger life he'd slept with pigs – well, at one stage, there was a piglet at the property and police have on record a statement suggesting that Bryant was encouraged to keep the piglet in his bedroom to keep it warm at night and he did that until it became rather large and unmanageable.

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I suppose since seeing "Babe" not too many people would take a critical view perhaps of that in its early stages in any event. But on the Thirteenth of December, 1991, Miss Harvey executed a Will leaving her Estate to Bryant. And on the – some people commented about Miss Harvey's driving skills. On the Thirteenth April, 1992, she had an accident in driving the motor vehicle whilst Bryant was a passenger in the car and it indicated that at the time of the accident they were travelling at about sixty kilometres per hour and had two vehicles behind them and one of them travelled close to the rear of the vehicle and when there was a sudden stopping motion there was a collision between vehicles.

He accident in which Miss Harvey died was on the Twentieth of October, 1992. That accident was about one point six kilometres on the Arthur Highway west of Copping and the accident occurred when the Mazda 121 sedan, being driven by Miss Harvey, in a westerly direction veered onto the incorrect side of the road and collided with an oncoming vehicle. In a statement relating to that accident Bryant indicated that he and Harvey had been to Sorell obtaining groceries and feed for livestock and were returning to the property. There were three dogs in the rear of the vehicle and his last recollection was of turning his head around to his right to stop two of the dogs who were fighting. Prior to that accident the vehicle was travelling at about sixty kilometres per hour. After the accident Bryant was admitted to Hospital and x-rays of cervical spine revealed evidence of bilateral fractures through both his first and second cervical vertebrae. That was an injury for which he received treatment and then your Honour was released from Hospital.

As a consequence of the death of Miss Harvey Bryant inherited a substantial Estate, that inheritance the effect of

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Being effective in June and July, 1993. This left him independent and wealthy. Now that is June and July, 1993. On the Thirteenth and Fourteenth of August, 1993, his father committed suicide.

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But prior to committing suicide he had commenced making arrangements through Perpetual Trustees to have a committee appointed under the Mental Health Act to manage his son's affairs and that, your Honour, was a factor indicated that prior to him committing suicide, Mr. Bryant senior was making preparation for things in his absence.

He started to put his son's affairs in the hands of a committee, he changed bank accounts over to wife's name, he changed the Hydro account at their home over to his wife's name, and a number of other such matters.

Now, your Honour, I dwell upon that for two reasons, the first one is that the medical practitioner treating Mr. Bryant at the time was treating him for anxiety and depression, on the day that he committed suicide his wife spoke to him on two occasions by telephone at the property at Copping and on both occasions she was unable to make any sense or any real sense in the conversations she had with him and she was concerned about him. Left pinned to the door of his property, of the farm house, was a note in his handwriting saying "Call the police" and his body was some two days later discovered in a dam on the property, face down in about two to three metres of water. The relevance of that, your Honour, in 1993 probably, in so far as what occurred on the 28th of April, is this, that by 1993 Bryant no longer had Miss Harvey, his constant companion, his father, who always seemed to keep an eye on him when things started to get out of hand, and was a person with whom he had a lot of social or recreational activity in the Peninsula area, that is diving, fishing, his father would take him out scuba diving and so on, and that consequence left him without any certainly steadying influence from his father. And a comment has been made that it's certainly apparent that his mother is unable or was unable from this time onwards certainly

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To control his conduct. He had the means on a regular basis through Perpetual tees, the committee appointed, to obtain access to funds and an illustration of the way in which without any measure of control he spent money in the months of March and April of 1996, that is leading up to this event, he had two passbook accounts into which income or revenue was paid and to which he had access –

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In March/April he withdrew from one account Thirteen thousand one hundred and fifty dollars, from the other account he withdrew Eleven hundred dollars. He sole property at auction through various auction houses in Hobart worth – or he received from the sale of that property Nine thousand eight hundred dollars. So he had access in those last two months before this incident to Twenty-three thousand dollars and obviously he had no, shall we say, outgoings or expenses which would normally be associated with a property of that nature.

HIS HONOUR: Some reference in the record on interview as I recall it of trips overseas, were they reality?

MR. BUGG: They were reality, your Honour. If I could just take you to that.

HIS HONOUR: When did they occur in this time frame?

MR. BUGG: They certainly occurred at about this time. What happened was prior to this incident the extent to which he was able to travel was severely curtailed by the people controlling his finances because he was just stepping onto planes and travelling with no concern for where the funds were coming from. If I could just take your Honour to that. The travel internationally in recent years shall we say since the death of Miss Harvey, in December '93 he flew from Melbourne to Singapore and returned three days later. In April '94 he flew to Melbourne to Bangkok to London, that is on the 19th April. On the 25th April he flew from London to Sweden. On the 30th April he flew from Sweden to the United Kingdom. On the 3rd May he flew from the U.K. to Los Angeles. On the 7th May he flew from Los Angeles to Melbourne. That's in May.

In July '94, he went from Sydney to Frankfurt on the 10th. He then went from Vienna to Frankfurt to Copenhagen

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on the 17th July. On the 22nd July, he flew from Frankfurt to Sydney. Then three and a half months later he flew from Melbourne to Bangkok to London, he then flew from London on the 11th November out of Heathrow, destination unknown. On the 28th November he returned to the United Kingdom and flew back to Australia on the 30th November

In '95 in early February, he flew from Melbourne to Auckland, he then flew four days later to Los Angeles, six days later from Miami he flew to Frankfurt, six days later he flew from Frankfurt to Miami, five days later he flew from Los Angeles to Auckland and Melbourne. Two and a half months later he flew from Melbourne to Sydney to

Bangkok to London. Five days after that he arrived in Germany, based upon a passport stamp. Five days later he was in Poland –

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one day later he was back in Germany, two days later he flew from London to Bangkok to Sydney.

Your Honour, in 1995 – in June, that is, only one fortnight later, he flew from Hobart to Melbourne then Melbourne, Bangkok, Frankfurt and then two weeks later he flew Frankfurt to Singapore to Sydney. Then three weeks later he flew Hobart, Sydney, Los Angeles, six days later he flew Los Angeles, Tokyo and two days later, Tokyo to Melbourne. Then a month later he flew Hobart, Melbourne to Kuala Lumpur where he lasted two days and flew from there to Bangkok and then flew back to Sydney. And obviously by '96 there were some constraints being imposed but five months after that last Bangkok trip in late January he flew Melbourne, Sydney, Bangkok, London and stayed in London six days and flew back to Melbourne. That is excluding his interstate travel and there are four pages of details of interstate travel over the period of time – sorry, three pages, your Honour, over the period of time after Miss Harvey's death.

At the time the Martins bought Seascope property Bryant's family were certainly interested in buying the property. That has been indicated in spite of what Bryant told the police during the interview and there was some real disappointment. His father was interested in purchasing the property, there was no suggestion of any gazumping or any other such activity as far as Mr. and Mrs. Martin was concerned. The owners of the property were unwell, they were thinking of selling, there was obviously information to that effect available in the district and Mr. Bryant was interested in buying the property but by the time he got to a stage where he could do anything about it the Martins had purchased it. That was certainly a matter of disappointment. Later, when Bryant himself had money and after – he tried to buy from Mr. and Mrs. Martin the property which they owned at Palmer's Lookout Road.

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You will remember there was mention about that. And he was told by the Martins that the property was not for sale. That appears to have been a disappointment of not having his father – of his father dying and taking his own life in a state of depression may or may not, and I am only speculating, your Honour, may or may not provide some insight into what caused the confrontation between Martin Bryant and Mr. and Mrs. Martin and why he went to that property first on that day.

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Because there had obviously been some difficulty at Palmer's Lookout Road as well and he went there next after he left Seascope, which as I have said previously, leaving that house with both Mr. and Mrs. Martin dead. Now whether in his way he had decided that the loss of his father and his father's disappointments were in some way connected with an inability to purchase Seascope and whether he missed the recreational activities he had with his father at Seascope is a matter only for speculation your Honour, but on all the material that has been gathered there has been no indication of motivation but it certainly is interesting to consider that history.

Your Honour, I refer you to the rest of the report now of Dr. Sale which was obviously prepared by him, at my request, to determine whether or not Section 16 of our Criminal Code provided any explanation for Bryant's criminal responsibility, in other words was he criminally insane at the time he committed these acts. And you will see that Dr. Sales's conclusion your Honour was that there was no such defence available to him. He concluded that it was his opinion that the syndrome, or disorder, which explained much of the conduct that Bryant went through, which many people found either disconcerting and anti-social or inappropriate, was attributable to a syndrome caused Asperger's, that's A-s-p-e-r-g-e-r's, syndrome and he details the indicia of that syndrome on page 16 of his report. But he says, and your Honour will see when you look down the length of that page, that many of the shall we say indicia that are referred to there may be said to be consistent with aspects of his conduct or behaviour about which some comment or evidence has been given.

But he says on page 17 "These various named syndromes are just that, syndromes, constellations of behavioural patterns that are found together. There is no indication on causation which for all these syndromes remains

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speculative. What seems clear is that abnormalities were evident from his earliest days. He was likely born with these problems rather than acquiring them through an abnormal family environment."

As an adult he can be regarded as manifesting a personality disorder, the general diagnostic then goes on to refer to for personality disorders which includes an enduring pattern of inner experience and behaviour that deviates markedly from the expectations of the individual's culture. This pattern is manifested in two or more of the following areas, cognition, effectivity, interpersonal functioning and impulse control. The enduring pattern is inflexible and pervasive across a broad range of personal and social situations."

Your Honour, I won't go through the further detail of that.

HIS HONOUR: What's the prognosis?

MR. BUGG Q.C.: The prognosis, your Honour, is really that as far as Doctor Sale is concerned, there would be no improvement on the condition –

HIS HONOUR: Does Doctor Sale have a view about the presence or absence of schizophrenia or any other specific psychotic illness?

MR. BUGG Q.C.: Yes, your Honour. Thank you, your Honour, yes, the question of this man suffering from schizophrenia was the subject of some speculation but if I can just take your Honour to the relevant section of the report where he deals with that, at the top of page 18 he says:

"There is no form of mental illness, as the term is usually understood. He certainly does not manifest any psychotic illness such as schizophrenia."

He says: "Personality disorder is generally subdivided into particularly commonly occurring patterns. Bryant does not fit into many of these sub types, they are obviously anti-social traits, but he is

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Not typical of individuals with this pattern of behaviour. Perhaps, fortunately, he may be unique. I am confident that notwithstanding his disabilities Bryant knows what he has been doing and can discern between right and wrong. Perhaps the clearest indicator of this is his maintaining a false account of the day in question, an account that is invented. There would be no need to invent this if he were not aware of the wrongness of the behaviours for which he stands accused."

He then says:

"Finally I do not believe that he was acting under an irresistible impulse. His preparation for the day, taking firearms, petrol, handcuffs, getting up early, argue that some at least of the events of that day were planned ahead. While Bryant maintains his false account of the day at Port Arthur the meaning of his behaviour, if there is one, can only be speculated upon. His preparation for the day and the evidence that he was at Seascap before going to the historic site suggests that his major intention was to kill or harm the Martins and perhaps burn Seascap. He did not like the Martins and his mother has told of how he held grudges. Perhaps in some way he even held the Martins responsible for his father's unhappiness and suicide. Why he then proceeded on a homicidal spree remains a mystery. He had previously caused concern during childhood when shot birds or took potshots at tourists with his air rifle. His acquisition of military firearms and associated literature suggests that he may have held fantasies regarding their use. Other than occasional target practice he made no obvious other use nor did he associate with other gun users. Perhaps after he had started at Seascap he succumbed to a previously

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Held fantasy and took pot shots at tourists only this time with lethal fire power at his disposal rather than an air rifle. Unfortunately this remains speculation, only he knows why he travelled to Port Arthur on the 28th April and for the present he chooses not to reveal this."

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Your Honour, Dr. Sale provided an update report to me on the 13th of November along with that material which I indicated to your Honour I had a copy of. I now pass that up to your Honour. The document, the letter that I refer your Honour to, is the last two page report dated the 13th of November. He once again details his level of

communication with Bryant and I think it is appropriate, your Honour, if I read that last report to the court, a copy of which my learned friend has.

He says:

Following my assessment of this various material plus the opportunity of witnessing Bryant's demeanour during the hearing on the 7th November which was, of course, when he pleaded guilty – I am now firmer in conclusion that Bryant likely manifests a condition termed Asperger's Disorder, a developmental condition bearing some similarities to autism. From early childhood and cognitive development have been consistently abnormal. There have been problems with language and communication and especially with his social behaviour. In addition he has also been noted to have an unusual voice, high pitched with little tonal variation and there are unusual mannerisms and motor behaviours. His affect whatever the circumstances appears fatuous and inappropriate. This was particularly evident during the recent court hearing. However, it should be not that this type of behaviour appears to be the norm for Bryant. There is little variation. He appears to be incapable of experiencing or expressing empathy, remorse or guilt, those emotions which tend to act as brakes upon social behaviour. Indeed, his social behaviour has been frequently observed to be disinhibited, inappropriate and lacking commonsense. The original description of Asperger's Disorder in 1994 referred to a lack of interpersonal empathy, solitariness and the pursuit of idiosyncratic goals.

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He patients show abnormalities of gaze, quality of expression and gesture and had unusual voice production. Whilst most individuals with Aspergers disorder, going on from that quotation, are quiet, introverted and present no hazard to the community there have been occasional other reports where violence has occurred although not of this scope. In some instances this has been described as apparently motiveless, oddly motivated or callous. In Bryant's case there was some earlier restraining influences which helped contain his inappropriate and anti-social conduct. For example, his father and Miss Harvey and his financial circumstances. These restraints have been lost over recent years. Asperger's disorder is not rare, probably occurring in approximately point three percent of the population. It is far more common in males. The cause is unknown although a genetic aetiology has been suggested. There is no evidence to suggest that an abnormal family environment plays a causative role. Indeed, in this particular instance it would appear that his family have also been victims of his behaviour, albeit in a different was and over a protracted period.

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There is no treatment for the disorder which can be regarded as lifelong. The relevant diagnostic criteria for DSM4, which of course is the diagnostic booklet used by psychiatrists and psychologists in this community is attached to that report, your Honour. Your Honour, might I just make one correction from the transcript, I think yesterday I referred to Mrs. Pamela Sloane as Pauline Sloane – that should be corrected on the transcript.

Your Honour, there is perhaps one matter which I should just refer you to which causes, in light of what has occurred, some concern and that is that when Bryant left school he received a disability pension based on an assessment of 85 per cent or more incapacity to work, and of course throughout the period of receipt of such pension he has to undergo regular reassessments insofar as that is concerned and in 1994, because of the means he then had, that pension was terminated but prior to the termination of that pension he was medically assessed – and if I can just obtain that, the assessment involved an interview as well and the interview material is enlightening to say the least – I am sorry, the assessment was made in 1991 and during a conversation with a medical practitioner undertaking the assessment the comment was made that "His father protects him from any occasion which would upset him as he continually threatens violence. Martin tells me he like to go round shooting people".

Your Honour, in conclusion, I would make the submission I foreshadowed on the first day of these proceedings in relation to the sentencing of this young man. The position is clearly one where he is criminally responsible for his acts. I don't make the submission in a way akin to the problem adverted to by the High Court in Bean's case but the totality of this man's criminal conduct from any view is such that concepts involving principles of sentencing such as the totality

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Principle should not have any relevance to the ultimate disposition of this matter. And I once again reiterate the submission I made to your Honour on day one.

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THE ALLOCUTUS WAS PUT TO THE ACCUSED

HIS HONOUR: I'm sorry, Mr. Avery, I should have given you an earlier opportunity to make-----

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HIS HONOUR: -----any submissions about the problem in relation to Section 11 so I'll deal with that as and when you wish.

MR. AVERY: Well I think it's more my learned friend's problem than mine, with respect your Honour, and no doubt he will deal with it in his usual capable way.

HIS HONOUR: Yes, very well.

MR. AVERY: Your Honour nothing that I can say on behalf of my client can mitigate the outrageous nature of his conduct. My learned friend has used highly charged language to describe the behaviour of Bryant over the course of this fateful day and I do not disagree at all with his description of this being a slaughter. The gross nature of the conduct defies logic and sane explanation and I am specifically instructed to make no submissions or place before the Court any explanation and I am specifically instructed to make no submissions or place before the Court any explanation or reason for this massacre other than can be gleaned from the medical material. The reason and the answer to the burning question why must, at least for the time being, remain with the Accused. All I can do is share with the Court and the community the benefit of the expert material that has been obtained by the Defence to try and give an insight into the mind of this man.

Your Honour the Accused has been examined by Dr. William Lucas, consultant psychiatrist of South Australia, Mr. Ian Joblin, forensic psychologist of Melbourne, and Professor Paul Mullin, forensic psychiatrist of Melbourne. In a report prepared to the accused's former Solicitor, dated Thirty-First of May, 1996, Mr. William Lucas, who examined Bryant at the Risdon Prison on the Twelfth of May concluded that it was unlikely that he was suffering from a major psychiatric disorder. He also stated that

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A diagnosis of schizophrenia could not be made out on the basis of his examination. He commented, "Mr. Bryant has some unusual symptoms but I think it will turn out that this can be explained on the basis of a personality disorder combined with longstanding feelings of depression, rejection and alienation."

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"If he had a longstanding schizophrenic illness one would expect among other signs an obvious deterioration in disfunctioning over the years. He seems to have been much the same a long time. And further, I do not believe that his depression reached the level of a major depressive episode in the last twelve months. He did not indicate that he was notably depressed at the time in question. I am sure Mr. Bryant will turn out to have the diagnosis of a personality disorder, probably a severe one, and indications are that the features of this disorder will be mixed in type".

The opinion expressed by Dr. Lucas was in the following term; "At this stage of his assessment I am of the opinion that Mr. Bryant is not suffering from a psychiatric disorder which would allow him to raise the defence of mental illness within the terms of the provisions of the Criminal Code of Tasmania. I do not believe that at the time of the alleged offence Bryant was suffering from a mental disease which would render him incapable of understanding the physical character of his acts or appreciating that his act was one which he should not do or that it was done under an impulse which he was deprived of any power to resist. I am also of the opinion that he is fit to plead, although he will require some assistance in understanding in full his legal situation and what is required of him. He is intellectually handicapped, the degree of which is yet to be determined, but this does not provide him with the defence and should not interfere with his ability to participate meaningfully in the preparation and conduct of his defence."

Mr. Ian Joblin, the forensic psychologist of Melbourne, interviewed Bryant on the Tenth of May and the Sixth of June and, ignoring background material you Honour, Mr Joblin particularly carried out intelligence testing, and on the Tenth of May administered verbal – I'll repeat

That, on the Tenth of May administered the Weschler Adult Intelligence Scale Revised. On that date only verbal section was administered because of the restrictions in Bryant's movement and his verbal I.Q. at that point was calculated at 64. His performance I.Q. testing was conducted on the Sixth of June and that was calculated at 72, giving a full scale I.Q. of 66, and I will detail the effects of that by the report I particularly rely on in a moment.

Two other specific intelligence tests were conducted the Ravens Coloured Progressive Matrices is designed for persons who may have an intellectual abnormality or who may have deteriorated. This test was used to assess the degree to which Bryant was able to think clearly or the level to which his intellectual functioning may have deteriorated. An actual IQ figure is not available from this test but Bryant scored for Australian norms at a figure just greater than that which would be expected of an eleven year old. The results of this test indicate that compared with a group of eleven year olds, Bryant is in the tenth per cent aisle, that is, ninety per cent of eleven year old children would score higher than him on this test. To complement that test, the Standard Progressive Matrices was administered, this is a new Australian adaption reprinted in 1995, it is a test of non-verbal reasoning ability and measures cognitive functioning. This tests provides a measure of fluid intelligence, educative ability which is relatively independent of specific learning acquired in a particular cultural or educational context. In this 1995 Australian manual research indicated that scores on this test tend to remain stable from the age of fifteen to twenty-five. It is appropriate to indicate an IQ figure for Bryant as tested on 6th June this year at 68. This places Bryant in the second per cent aisle, that is, relative to persons of his age group, 98 per cent would score higher than he did.

A further test of receptive vocabulary was administered. It is often considered that vocabulary is consistent with intelligence. For the purposes of assessing Bryant's power of hearing vocabulary the Peabody Picture Vocabulary Test, Revised, was administered. This is designed primarily to measure a subject's receptive hearing vocabulary of Standard English. In this sense it is an achievement test in that it shows the extent of English

Vocabulary acquisition. It is not a comprehensive test of general intelligence, instead it measures only one important facet of general intelligence, vocabulary. On this test Bryant scored an age equivalent of a child ten years nine months. At the time of testing this man's chronological age was twenty-nine years and twenty-four days. Again, this is in my opinion consistent with the results on the intelligence scale.

Your Honour, the opinion upon which the defence places most reliance, however, is that of Professor P.E. Mullen, Forensic Psychiatrist, of 160 Nicholson Street, Fitzroy in Victoria. I tender to the court the report of Professor Mullin dated 12th of November, 1996, together with his Curriculum Vitae, but given the import of this report I would ask to read it in its entirety.

"Psychiatric Report in confidence Martin Bryant, date of birth 7th May, 1966.

I have prepared this report at the request of Mr Bryant's legal representative, Mr John Avery. It is based on interview conducted on the 4 May 1996 at the Royal Hobart Hospital, lasting in total some 3 1/2 hours. In addition I had access to extensive documentation which included"

And I won't detail that.

This report is intended to clarify for the court why an insanity plea was not considered appropriate and to at least outline some of the factors which contributed to the dreadful actions of Mr Bryant.

In my interview with Mr Bryant, although he was initially anxious and somewhat reticent, he gradually relaxed as the interview progressed. He was receiving medication for pain but this did not produce any disorientation or obvious disorganisation in his state of mind. He gave the impression of attempting within his capacities to respond to my enquiries. As will be noted later in the report he initially denied memories of the offences but subsequently gave a fuller account.

Mr Bryant gives the initial impression of being a normal young man. Superficially his conversation is coherent, though his vocabulary is limited. It is only when you attempt to test Mr Bryant's comprehension skills and numeracy

that the extent of his intellectual limitation becomes clear. He functions in the borderline range between intellectual disability and the dull normal individual. Mr Bryant's intelligence has been tested on a number of occasions between 1973 and 1996. The extensive testing carried out by Dr Ian Joblin revealed a full scale IQ of 66 with his attainments on the so called performance scales being somewhat higher than on the verbal tests. A range of other tests of intellectual functions performed by Mr Joblin confirmed that Mr Bryant was functioning

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intellectually in the lowest 1 to 2 percent of the population. A measure of intelligence is of less practicable significance than functional capacities. In this regard Mr Bryant has functioned in the community, lived independently, albeit with the assistance and financial constraints provided by a guardian. He can manage not only to function in his every day and routine environment but also to cope with trips interstate and overseas, though as will be noted later these represent limited excursions. Mr Bryant, like many intellectually limited people, has problems with the temporal relationships and the sequencing of events.

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Thus he brings together occurrences which in fact were separated by considerable lengths of time and he will alter the order of events without being aware of the distortion. The good physical appearance of Mr Bryant paradoxically may have added to his interpersonal difficulties as it raised expectations of a level of interpersonal competence which in fact he does not possess and the disappointed expectations may have tended to make others withdraw from him.

Past Medical and Psychiatric History.

Mr Bryant reports two previous hospitalisations. The first was when he was about 10 years old and required treatment for burns sustained while playing with fireworks. The second in October 1992 was following a road traffic accident in which he sustained a fracture of his cervical vertebrae, fractures of the ribs and a head injury. He is recorded as having remained unconscious for approximately an hour. He described severe headaches for some weeks afterwards. He was not aware of greater problems with memory or concentration following the accident nor of any change in his behaviour. He has subsequently had a CAT scan to visualise his brain and an electroencephalogram to record the electrical activity in the brain and these do not suggest any brain damage.

In his childhood Mr Bryant was assessed on a number of occasions by psychologists and psychiatrists. He was noted soon after starting school to have both behavioural problems and learning difficulties. He was referred from the Friends School in September 1973 for assessment. He was noted to be aggressive, destructive and very difficult with other children. He was transferred to the Newtown Primary School where again his behaviour led to referral to a child guidance clinic.

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At this time he was thought to be hyperactive and placed on both medication and subsequently on a special diet which was then fashionable for the treatment of this condition. Mr Bryant's behaviour both at school and at home remained troublesome. He is noted in the records from New Town Primary School to lack friends, to be struggling scholastically and to be persistently disruptive in class. There are references to him stealing, to him having violent outbursts and to tormenting vulnerable children. There are also descriptions in this material of him taking delight in the discomfort and failure of other children in the class situation. In August 1977 he was suspended from the New Town Primary School and soon after was assessed at the Hobart Diagnostic Centre. In this assessment there are records of Mr Bryant torturing and harassing animals and of tormenting his sister. He was still apparently having speech problems at this time. Considerable work was attempted to remedy Mr Bryant's problems and when in 1978 he returned to school there was noted to be a decrease in his aggressive and disruptive behaviour, though he was still teasing younger children. In 1980 on transfer to the New Town High School he was placed in the special education unit where at least initially he coped better both academically and behaviourally. There are however clear indications of deterioration in all aspects of his performance towards the end of his school career. Again in the material from this period are references to tormenting animals.

In February 1984 Mr Bryant was assessed by a very experienced clinical psychiatrist, Dr Cunningham-Dax. This assessment was initiated to consider Mr Bryant's eligibility for a disability pension.

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Dr Cunningham-Dax stated that Mr Bryant was intellectually handicapped and personality disordered. He also raised the possibility that he might be developing an illness of a schizophrenic type. On the basis of this report and subsequent assessments which relied upon it, Mr Bryant was granted a disability pension. There are subsequent references to Mr Bryant having a schizophrenic illness and of being a paranoid schizophrenic in the records of Dr

Mather (December 1991) and Dr P M McCartney (December 1991). These diagnostic formulations, it transpired, were not the results of the doctors own conclusions, but based on the report of Mr Bryant's mother that he had been diagnosed by Dr Cunningham-Dax as suffering from this illness. This was a misunderstanding on Mrs Bryant's part and it is this misunderstanding which led to an opinion by Dr Cunningham-Dax that Mr Bryant might develop schizophrenia being transmuted into a diagnosis of this severe mental illness.

Mr Bryant has had no contact with the psychiatric services since this time. He did however consult his general practitioner, Dr Mather, with complaints of anxiety and problems sleeping. He was prescribed tranquillisers in January 1993 and August 1993. He took these tablets on three or four occasions per week. He denied using medications in greater than the prescribed dosage.

Family Background. Mr Bryant is the elder of two children. Mr Bryant's father died three years ago and was described by the accused as a nice, quiet friendly man with whom he had a good relationship. He was aware that his father had killed himself and agreed that his father had been "down" before the suicide. Other information available to me suggests that Mr Bryant's father had had a depressive disorder for some time and had been receiving psychiatric treatment. Mr Bryant was not able to give a description of his mother other than

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someone who washed his clothes and cooked him food. Despite this he considered himself to have a good relationship with her. Mr Bryant was more forthcoming about his younger sister now aged 23. She lives in Western Australia and works as a cook. He said that as children he found her difficult because she was much brighter than he and seemed to have lots of friends, whereas he was painfully aware of the lack of such companions. He said though he was jealous of her as a kid, but their relationship greatly improved when she did so much to look after him following his road traffic accident in 1990. He knows of no history of mental disorder in his sister or his mother.

It was difficult to obtain any sense of the family environment from Mr Bryant's account other than his bland assurances that it was good, OK and nice.

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There are suggestions of problems in the family both when Mr Bryant was a young child and in the years prior to Mr Bryant Senior's suicide. The extent to which Mr Bryant's parents were a couple struggling to cope with an inherently difficult child and the extent to which they contributed to his disturbed development cannot retrospectively be ascertained. It is questionable what weight should be placed on the negative opinions expressed, particularly about Mrs Bryant, in some of the earlier records from the child assessment and guidance clinics.

Personal History. Mr Bryant appears to have shown abnormalities in development from infancy and early childhood. He was slow both in attaining his motor milestones and in speech development. The extensive behavioural and social problems shown by Mr Bryant during his early school years have already been described. In summary his physical, emotional and intellectual development were slow. He had considerable difficulties relating to other children. His behaviour was often aggressive and disruptive. The intellectual limitations impaired his capacity to learn and his behavioural difficulties alienated him from his peers and made him difficult to manage, both at school and at home.

Mr Bryant's memories of school are that he found it an unpleasant and distressing experience for virtually the whole of his attendance. He recalls frequently being bullied. He said "I was hazed and knocked around all the time, no-one wanted to be my friend". He only recalls one companion at school and this for a relatively brief period during his childhood. The predominant memory is of being by himself, ignored by the other children, or attended to in a bullying and frightening manner.

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Mr Bryant remembers both refusing to go to school because he was afraid and pretending to have various maladies to persuade his mother to keep him away from school. He described himself as having been "terrified" of going to school and of facing his tormentors.

Mr Bryant was a slow learner at school and was placed in special classes. Despite his learning difficulties he has acquired adequate literacy skills. He was able to read aloud from an article in a woman's magazine without making any errors. His difficulties were far more obvious when it came to simple calculations which were beyond his capacities. Mr Bryant's intellectual limitations were recognised both at school and when he finished school. He never entered regular employment and only managed to make a little money by odd jobs gardening and tidying up.

It was while engaged in odd jobs of this kind that he met Miss Harvey. He describes Miss Harvey as having been his only real friend. He said from the outset they got on well together. He enjoyed being with her. They shared an interest with animals. This concern with dogs and cats does not appear to have extended to the effective care of these animals as the RSPCA removed large numbers of cats and dogs from Miss Harvey's care at various times. The relationship with Miss Harvey appears to have been that of a helpful and affectionate child.

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It was not a sexual relationship. It does, however, appear to have provided for Mr Bryant the one experience of effective human contact outside of his family. Mr Bryant said that he was surprised after Miss Harvey's death to learn that she had left him her money. He is still uncertain as to the extent of his various inheritances having only the vaguest notions of his financial situation.

In November 1993 Mr Bryant was made subject to a guardianship order which placed the management of his money and property in the hands of the Perpetual Trustees, Tasmania Limited. This order was made on the application of his mother and on the recommendation of Dr Terence Craven and Dr Bernard Mather who both expressed themselves of the opinion that Mr Bryant was mentally impaired as the result of a low level of intelligence which rendered him incapable of managing his own affairs and property. This arrangement ensured some order in Mr Bryant's financial affairs and though he apparently objected on occasion that he was not provided with even more funds, he accepted this arrangement. He also developed a trusting relationship with the administrator of his estate who provided considerable additional support and advice to him.

Mr Bryant clearly had difficulty maintaining the property which he now owned, but did manage a semblance of an independent existence. In the past few years he has taken a number of trips overseas and interstate. The first of these occurred prior to Miss Harvey's death when he and his father accompanied Miss Harvey to New Zealand. In the last two years he has taken a number of trips usually alone, although on two occasions a sixteen year old girlfriend, Janetta Hoani, accompanied him.

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He described his various attempts at national and international travel as disappointing. He said he usually undertook these trips because "I wanted to meet up with normal people" but apparently "it didn't work". He travelled to such places as London, Los Angeles, Amsterdam and Bangkok and in these various cities tried to strike up conversations with people that he encountered. He said that he would go to, what he referred to as cafeterias and sit down next to someone and try to engage them in conversation. He was distressed and enraged by the frequency with which people would move away from him or in other ways reject what he saw as friendly advances. Mr Bryant stated that the best part of his international trips was the long plane journey. It transpired that the long aeroplane journey was that he could speak to the people seated next to him, who presumably being strapped to their seats had no choice but to at least appear friendly. Mr Bryant became quite animated in describing some of what he regarded as the more successful interactions with fellow travellers on the journeys to and from Europe and the United States of America. This account is confirmed by statements obtained by the police from passengers who found themselves seated next to Mr Bryant. Next to the journeys themselves, Mr Bryant listed the sex video shops in Amsterdam as the greatest pleasure he had derived from world travel. He denied using brothels and prostitutes while overseas.

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Mr Bryant made the majority of his trips to Melbourne where he was fond of riding on the trams and of going to the Zoo.

Mr Bryant's first sexual encounters were with prostitutes and escorts. He apparently paid for an escort every month or so in the years prior to obtaining his inheritance."

And the author talks of two relationships which I'll not comment upon.

Mr Bryant's only other girlfriend was Ms Wilmot, a young woman of 20 with whom he was having a relationship at the time of the offences. He describes her as far brighter than himself and as someone who is currently pursuing a course in horticulture having failed to be able to find regular employment. They met several times a week and would go to restaurants and the pictures. The relationship was a sexual one and he claimed they had intercourse on a regular basis, the last being on the Friday night prior to the offences. Mr Bryant firmly rejected any suggestion that his relationship with Ms Wilmot was becoming strained or in danger of ending at the time of the offences.

He described his pleasure in life as watching the television, music and killing. – sorry, I'll reread that. "Mr Bryant described his pleasure in life as watching the television, music and drinking. The music that he most favoured was the sound track of the Lion King and records made by Cliff Richard. On direct questioning he acknowledged that he spent a considerable amount of time watching videos and going to the pictures.

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He listed as his favourite film, 'Babe', and as his favourite videos the Steven Segal movie, "Under Siege", and a film called the "Protector", which he claimed to have watched at least a dozen times. These latter two videos are of the violent action variety. Mr Bryant was also in the habit of purchasing both erotic magazines and military type magazines about weapons, military tactics, survivalist activities etc.

Mr Bryant has never been involved in competitive sports though when his father was alive, they would regularly go scuba diving together. He has acquired a number of guns by private purchase. He apparently had no difficulty obtaining ammunition for these weapons. He has never acquired a gun licence, partly because he was afraid of difficulty answering questions about safe gun usage. He acknowledged a fascination with weapons and demonstrated an extensive knowledge of guns. This interest in guns has been more intense in the last year or so. His access to large amounts of cash enabled him to purchase automatic and semi automatic weapons designed for military use.

Alcohol and Drug History. Mr Bryant drank alcohol occasionally until the last year or so. During the 12 months prior to the offences his alcohol consumption rapidly increased. He reports that in the six months prior to the tragedy he typically drank every day. He would have his first drink in the morning and then drink more heavily in the afternoon and evening. He was uncertain of the exact quantities that he consumed, but estimated that he would drink half a bottle of sambuca, a considerable part of a bottle of Bailey's Irish Cream, and would sometimes add to this port and other sweet alcoholic drinks.

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Mr Bryant reported disturbed sleep in association with his alcohol consumption and an occasional intense sense of dehydration. He did not however, describe early morning shakes, marked amnesia for the previous day's drinking or particularly intrusive hangovers. He did not report any gastro-intestinal disturbances of the kind often found in alcohol abusers. He said that he drank to fill in the time and to relieve his loneliness. Mr Bryant was not intoxicated at the time of the killings. He reports no use of illicit drugs, specifically denying using cannabis, opiates and amphetamines.

Mental State. Mr Bryant's user of language showed the limitations in vocabulary one would expect from someone of low intelligence, but nonetheless there was a reasonable degree of fluency and on most occasions, a clarity in his use of language. Occasionally he would misuse words, or mispronounce words, but these errors reflect ignorance rather than a disorder in the use of language. There were occasional sudden switches in the direction of Mr Bryant's discourse, but again, I suspect these reflect the changeability of someone of limited intellect who is easily distracted by irrelevant or chance circumstance.

Mr Bryant's mood was predominantly anxious and on occasion, frankly distressed. The changes in his mood were appropriate on most occasions to the content of the conversation. The occasional apparent emotional incongruity, I suspect, reflected the shallowness of Mr Bryant's understanding and capacity for sympathy.

Mr Bryant initially denied that he suffers from any depression or lowered mood. He attempted to portray himself prior to the incident as a cheerful individual whose pleasure in life was only frustrated by the unfriendliness and unsociability of his fellow humans.

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Later in the interview Mr Bryant became more frank. He talked of the extent to which he thinks about the distress and the rejections in the past. He said that he tries to live day by day, but acknowledges that frequently thoughts about past rejections, and what he recalls as his victimisation at school by bullies, intrude. He has become more caught up in these thoughts about past indignities over the last year. He said he became increasingly unhappy and angry because he had no real friends. He said, "all I wanted was for people to like me." Their failure to respond to his overtures led him to feel "that I'd had a gut full". This culminated in the months before the tragedy in a sense that there was no future for him, that he would always remain lonely and rejected and that he would be better off dead.

Mr Bryant does report a degree of sleep disturbance in the months prior to the killings. It was difficult to characterise this, but it seemed to be a combination of difficulty in getting off to sleep, sleep disturbed by nightmares and

occasional early morning waking. He does not however report and decrease in his libido. The picture that emerges was not suggestive of a depressive illness. It was a pattern more reminiscent of an angry and distressed man having increasing difficulties coping with his social isolation and his various disappointments. Nevertheless in this context Mr Bryant came to the conclusion that life for him was not worth living. He began to consider suicide for the first time about a year ago. He said, "about twelve months ago I decided I'd had enough". The thoughts of suicide became more prominent in recent months.

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Mr Bryant acknowledged that he has always been somewhat self conscious and shy. He has throughout his adult life felt as if people looked at him in the street, talked about him behind his back and laughed at him. He feels that they make derogatory comments about his appearance and how he is dressed. This, in recent years, has been combined with a conviction that people wanted to hurt or harm him. He sometimes believes that particular individuals he sees in the street are bent on physically attacking him. These sensitive and persecutory ideas are not organised into any system of belief that there is a plot aimed against him. It amounts to a degree of over sensitivity and a general conviction in the malevolence of others rather than being suggestive of delusions of persecution.

Mr Bryant did not describe any phobias, generalised anxiety of an abnormal degree, or panic attacks. There was nothing to suggest that he suffers from obsessional symptoms. He does not have obsessive or eccentric concerns with any topics or activities. He does show however, considerable persistence with regard to his resentments and anger about real or imagined insults many of which date back to his childhood. He also has a rigidity of character favouring the repetition of the familiar where possible and tending, once deciding on a course of action, to persist in that plan almost irrespective of the effects on others or himself.

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Mr Bryant's general level of intellectual functioning is low. There was at the time I examined him nothing to suggest that he was disoriented or that his consciousness was in any way disturbed.

The Offences: Mr Bryant in the early parts of the interview referred to the tragic events at Port Arthur as "the accident". He claimed to have no memory of these events nor to have any memory for what may have led up to the shootings. The only account he provided was of waylaying the occupants of a BMW and then claiming to have driven this car at high speed. Later in the interview, perhaps as a result of becoming more trustful, he provided an account which at least in part may be relevant to the events. This account provided to me on 4 May has later been confirmed and expanded in Mr Bryant's statements.

Mr Bryant began by acknowledging "since I lost Miss Harvey things have slipped back on me. I just felt more people were against me". "When I tried to be more friendly towards them, they just walked away". He also became more caught up in ruminating on memories of slights and insults from the past. He said he began to think about these things a great deal and began to go over in his mind how he could get even. Initially he said he thought about strangling someone who was unfriendly to him, but then his thoughts turned to "shooting them". Mr Bryant said, "I thought guns would be better, the more power the better". Mr Bryant at this point began to talk about his various guns, in particular a machine gun which he took to be repaired in March or February. I asked him whether he had intended to use this weapon, but he informed me that this type of gun is "too unstable". He happily discussed the virtues of various semi-automatic versus fully automatic guns.

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He stated that about a year ago he decided he had "had enough". He was unsure exactly when the plan came to him for the massacre at Port Arthur. He said that he thought the plan first occurred to him a few weeks prior to the tragic events. When pressed he thought it might be either 4 or as long as 12 weeks ago that this first occurred. When asked why he selected Port Arthur he responded, "a lot of violence has happened there. It must be the most violent place in Australia; it seemed the right place."

Mr Bryant spoke of his longstanding resentment against Mr and Mrs Martin. He described them as "very mean people" and as "the worst people in my life". The basis for this antipathy appears to be Mr Bryant's belief that Mr Martin bought the property which they occupied at their death with the expressed intention of preventing his father from buying the same property.

I interpose to say my client has requested that I correct a point put by my learned friend that it was the Seascape property. Indeed it was the property, the farm, the Larner property that my client believes was the property his father wanted to buy and not the Seascape property and that error is transmitted into the report of Professor Mullen.

It appears that this was indeed a family myth about their misfortunes and according to Mrs Bryant her late husband would often complain to Martin Bryant of the damage to the family inflicted by what was viewed as the double dealing of the Martin family.

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Mr Bryant assumed that when he began shooting at Port Arthur he would himself be shot down. He stated in one interview, "my power, so powerful and the guns and these magazines filled with bullets. I could just go bang, bang, bang." This plan to kill Mr and Mrs Martin and then proceed to Port Arthur appears initially to have been elaborated following the break up of Mr Bryant's relationship with Ms Hoani at a time when he was particularly despondent about his situation and his future. Although with the initiation of the relationship with Ms Wilmot his mood improved and his suicidal preoccupations disappeared, nonetheless this dreadful plan appears to have been persisted with and eventually to have been put into awful practice.

I did not pursue with Mr Bryant any account of the actual killings as these can sadly be all too readily reconstructed from eyewitnesses and police investigations.

OPINION: Mr Bryant is of limited intellectual ability, his measured IQ lying in the borderline intellectually disabled range. He does however function reasonably well in the community and has a degree of charm and guile which enables him to perform in many areas at a far higher level than might be expected from his performance on IQ tests. The level of Mr Bryant's intellectual difficulties do raise at least a question about his fitness to plead. I discussed with Mr Bryant the nature of a trial and the various roles of the members of the court. He had a clear idea of the role of his legal representative, explaining it as someone to help him and speak for him.

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He had a rough idea of the function of a judge. He knew what a jury was, but was uncertain about its exact role. He could however easily understand when this was explained to him and when asked about it, an hour or so later, was able to give a reasonable account of the nature and function of a jury. Mr Bryant knew what it meant to be guilty and to be not guilty. He was aware that there were things called crimes and those who were found guilty might be liable to punishment. He had a clear notion that there are rights and wrongs. In my opinion therefore, this man is fit to plead, though he may require a little more assistance and a little more time in coping with the legal process than would a more intellectually able accused.

Mr Bryant has been a socially isolated and odd man throughout his childhood and later life. He has had considerable difficulty forming normal relationships with those of his own age. The social ostracism he suffered at school, and social rejection that has been his lot in adult life, has left him lonely, distressed and deeply resentful. He became so unhappy in the last year or so as to begin contemplating suicide. There must be some question when someone reaches this level of despair about whether a depressive illness has intervened.

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This possibility in Mr Bryant's case must be taken particularly seriously given the family history of such disorders. The description that Mr Bryant provides, however, of his state of mind and of his behaviour does not support a depressive illness. His appetite and libido were not disturbed. He was not constantly despondent, but only intermittently unhappy. There were no thoughts of guilt and worthlessness, but rather the reverse, thoughts of how ill used he had been and how unfair the world had been to him. In my opinion this was an angry, lonely and despondent man who came to contemplate suicide not one suffering from a depressive illness.

Mr Bryant was an over sensitive individual who attributed aggression and malevolence to many of those around him. This in my opinion is not as a result of persecutory delusions or of morbid experiences, but a product of the very real rejection and disdain which Mr Bryant has experienced through much of his life, largely as a result of his intellectual limitation and his peculiarities of personality. Mr Bryant is a self absorbed individual with a markedly egocentric view of the world. He has high expectations of others and a sense of entitlement which are both constantly being disappointed. The disappointment of his hopes is usually explained by Mr Bryant in terms of the insensitivity and ill will of others.

In my opinion though, Mr Bryant was clearly a distressed and disturbed young man he was not mentally ill.

There is no evidence to support the notion that this man has a schizophrenic illness. The use of this diagnostic term in association with Mr Bryant by Dr Mather and Dr McCartney was based on the report of Mrs Bryant who had clearly misunderstood the opinion of Dr Cunningham-Dax. She had come to the conclusion that her son had been diagnosed with this condition. Neither Dr Sale, Dr Lucas nor myself found evidence in Mr Bryant of his ever having had schizophrenia. Similarly, in my opinion, he does not have the evidence for a major depressive disorder. There was nothing in his history to suggest that he has ever been manic.

Dr Sale, in his report of the 6 August 1996, indicates that in his opinion Mr Bryant manifested severe developmental problems during childhood and that he could be regarded as having shown a mixture of conduct disorder, attention deficit hyperactivity and a rare condition known as Asberger's Syndrome. I am in agreement with Dr Sale that the records indicate that Mr Bryant was grossly disturbed from early childhood. He can certainly be fitted within the criteria for conduct disorder, but all this amounts to in the diagnostic manual is a list of a range of aggressive destructive and deceitful behaviours during childhood and as such does not advance understandings to any degree.

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Asberger's Syndrome is a condition which could explain some of the abnormalities in Mr Bryant and in noting this possibility Dr Sale raises a potentially important question. The section from the text on Forensic Psychiatry covering Asberger's Syndrome appended to his report by Dr Sale though providing a good account of the forensic implications does not adequately describe the critical clinical features (as one of the authors of the chapter I can perhaps be allowed this criticism). Mr Bryant craves attention from others. He desires relationships but fails to effectively communicate with others unlike the patients with Asberger's who are blandly indifferent to others. Mr Bryant also lacks, in my opinion, the central features of this condition which are repetitive activities, unusual skills with all absorbing obsessive interests and problems with the motor coordination. He also showed marked delay in the acquisition of language skills and required remedial therapy for his language deficits which is contrary to the picture found in those with Asberger's Syndrome.

The enormity of Mr Bryant's crimes call out for some explanation equally dramatic and extraordinary. It is not to be wondered at that the media have either attempted to portray Mr Bryant as afflicted by a dramatic mental illness, such as schizophrenia, or to be some kind of evil genius. In my opinion the origins of this terrible tragedy are not to be found in a single dramatic and sufficient cause,

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but in the interaction and combination of a range of influences and events. We may never know fully the intentions and state of mind which led to the killings, but a number of contributions are apparent.

Mr Bryant is an intellectually limited man who from early childhood showed marked impairment in his capacity to cope with interpersonal and social relationships. He responded to frustrations with aggression towards others and towards property. From an early age his behaviour was characterised by an unfortunate tendency to take delight in the discomfort of others and in the tormenting of people and creatures weaker than himself. This probably reflected in part the struggles of a child who felt buffeted and helpless in the face of the demands of the world and who sought to gain some sense of power, and restore some sense of self esteem, through ridiculing and hurting others. Mr Bryant received considerable support from his father and there are indications in the record during his later adolescence that a degree of stability and more effective social integration was beginning to emerge in this young man. The relationship with Ms Harvey for all its eccentric features probably added to Mr Bryant's increasing sense of having some place in the world. The death first of Ms Harvey and then the suicide of his father stripped away from Mr Bryant the two main sources of support and stability in his life. The acquisition of a level of wealth, which even with the intercession of the Public Trustees was beyond Mr Bryant's capacity to comprehend, let alone manage, may well have contributed to the subsequent increasing disorganisation in his existence, rather than forming a basis for stability as presumably had been hoped by Ms Harvey and his father when they bequeathed him this wealth.

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One troubling characteristic of Mr Bryant which was apparent in our interview, and is attested by a number of the statements, is his capacity to entertain grudges and to keep alive resentments about real or imagined injuries over long periods of time. The family myth about how Mr and Mrs Martin had blighted the hopes of his father appear to have become a central element in Mr Bryant's understandings of the world and of his resentment against others. Mr Joblin, in his interviews with Mr Bryant, uncovered a number of childhood memories of being, in Mr Bryant's eyes, humiliated by staff at Port Arthur. These trivial events in combination with the longstanding resentment of Mr and Mrs Martin may have been enough to give the specific direction to Mr Bryant's explosion of resentment against the

world. The specific plan to kill the Martins and to proceed to Port Arthur to engage in a general slaughter appears to have emerged some months prior to its terrible realisation. At the time Mr Bryant was isolated and despairing. The improvement in his life situation and the establishing of the new relationship with Ms Wilmot, one would have expected to have deflected him from this dreadful plan. In the event it appears that it is the rigidity in Mr Bryant's character which led to the activity of his plans hatched when despairing but carried out when his actual circumstances had greatly improved.

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Mr Bryant stated in one of his interviews that

"It was set in my mind, it was just set that Sunday....I wasn't worried about losing my property or never seeing my girlfriend again. It was just in my mind to go down and kill the Martins and kill a lot of people."

Mr Bryant's limited intellectual capacities and equally importantly his limited capacity for empathy or imagining the feelings and responses of others left a terrible gap in his sensibilities which enabled him not only to contemplate mass destruction, but to carry it through. There also has to be acknowledged that Mr Bryant took delight and gained excitement from tormenting others. This reaction of the frightened child to their own of powerlessness emerged in the adult as the desire to assert himself through the killing and maiming of others. He was an individual capable of taking delight not only in the fantasies of such destruction but, in the event, to delight in acting out those dreadful daydreams. There is in Mr Bryant an apparent sense of guilt, albeit truncated, about his actions, but equally, on occasion, he almost revels in the memories of his awful day – awful - acts.

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Mr Bryant often experiences fear and a sense of inadequacy when confronted by other people. In part he compensated for this sense of weakness through a fascination with weapons and through the possession of weapons. With his ready money came access to weapons of enormous potential power for destruction. The obsessive concern with weapons and the exhilaration he attained from handling and using guns added yet another element to the tragic mix.

It would be more satisfactory if one could point to some simple and direct cause of the tragedy at Port Arthur. This would not only help all of us in our attempts to make sense of this national disaster, it might at least raise the hopes of preventing a recurrence. Understanding of these tragic events in terms of a complex interaction between a number of abnormalities of mental state, personality deviations and a series of chance events, all finding a dreadful expression thanks to the availability of powerful weapons for killing, is less satisfactory and perhaps less useful, but in my opinion comes closer to describing the elements that went into making this tragedy.

Mr Bryant currently does not have the signs and the symptoms of a mental illness. He is, however, by virtue of his personality and intellectual limitations both of reduced coping ability and of increased psychological vulnerability. It is possible that under the combined stress of lengthy incarceration and of having to live with the memories and consequences of his awful acts that he may, in the future, break down into frank mental illness. It will be necessary to continually monitor his state of mind during his future containment and initiate appropriate treatment if, and when, it is required.

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Your Honour, that's the report that I will tender to the court. Your Honour, what therefore do we say is the totality of the medical evidence concerning that of Dr Sale? Firstly it is abundantly clear that at the time of the commission of these crimes and at the present day the accused is not criminally insane.

Secondly, although it has been thought in his early years that perhaps he suffers schizophrenia, it can conclusively be claimed that there is no evidence to support the notion that this man has a schizophrenic illness.

Thirdly, it appears that the accused does not fit into any neat pigeon hole of particular mental illness.

Fourthly, he clearly is intellectually disabled and without the support of his father and Miss Harvey and with the access to funds he regrettably found himself able, with ferocious consequence, to carry out this mass destruction.

Finally, Your Honour, it would be quite apparent the accused revels in the notoriety he has achieved but in his simple way he accepts the enormity of his actions and as a result has instructed me to comment on penalty.

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I have no other submissions, your Honour

HIS HONOUR: Thank you, Mr Avery. Do you wish to reply Mr Bugg?

MR BUGG: No, I don't, your Honour. I don't seek to have that apparent conflict of opinion resolved and your Honour, in conclusion I would seek leave to tender the edited transcript which I spoke to your Honour about this morning. That hadn't been done previously.

HIS HONOUR: Yes. And Mr Avery hasn't yet tendered the report that he wished to put in. Section 11. Do you want to be heard any further on section 11?

MR BUGG QC: Oh, only, your Honour, in relation to the counts in the indictment.

HIS HONOUR: Yes.

MR BUGG QC: Your Honour, the first one is count 9. And that – if I can just take you through the indictment – relates to the count of murder concerning Mr. Walter Bennett – you will recall the evidence.

HIS HONOUR: Yes.

MR BUGG: QC: Then count 10, following – Mr Sharpe, which is the one shot with two fatal consequences. Then going back, your Honour, to count 8, the count of murder in relation to Mr. Kevin Sharpe, the flow-on effect, or the intermediate scattering it was suggested in relation to that matter, covered counts 11, 12 and 13, that is Mr Broome, count 11, causing grievous bodily harm, wounding in relation to John Fiddler, count 12, and wounding in relation to Gaye Fiddler, count 13.

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HIS HONOUR: Count 11, the grievous bodily harm is a fragmentation one too.

MR BUGG: Yes. And then Counts 14 and 15, if you remember I described the turning of the firearm in an easterly direction. The intermediate effect relating – or flowing from Counts 14 and 15 is reflected in Counts 16, 17 and 18. That is, the count of wounding in relation to Thelma Walker.

HIS HONOUR: Thelma Walker, Pamela Law and Gwen Barker.

MR BUGG: Correct. Then Count 31, the count of murder in relation to Mr Winter brings us back to Count 19, Mr. Olson.

HIS HONOUR: Mr Olson, yes. I think there were two shots fired, were there not, at Mr Winter? One of them being fatal?

MR BUGG: That's right, yes.

HIS HONOUR: And the Crown, I suppose, can't say which of those two shots fragmented and caused the wound to Mr. Olson?

MR BUGG: No we can't no.

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Count 62 is the count of attempting to murder Michael Wanders and if you'll recall that was the shot which then passed on not hitting Mr Wanders, but in fact striking Linda White, count 63, causing grievous bodily harm. Then count 66, your Honour, that was an attempt to commit murder on Carol Susan Williams and reflected in count 67 of causing grievous bodily harm to Simon Roger Williams. Once again the shot missing its mark. And finally-----

HIS HONOUR: A single act, but with two consequences in other words.

MR BUGG: Yes.

HIS HONOUR: And finally?

MR BUGG: Count 69 and count 70 are related as well.

HIS HONOUR: Again a single act ----

MR BUGG: Yes.

HIS HONOUR: ---of assaulting both of them.

MR BUGG: Yes.

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MR BUGG QC: Yes, thank you.

HIS HONOUR: Well the consequence – if I rule against you, you're interpretation of Count 11, it would seem to me that Count 9 could be amended by including the murder of Mr Sharp

MR BUGG QC: That's right.

HIS HONOUR I take it that if I do rule in that way you'd be applying for that amendment?

MR BUGG QC: I would make that application. Yes, I would, your Honour.

HIS HONOUR: Then the only other pair which would lend themselves to the same account would be 69 and 70 because the one act would be an act of assault or aggravated assaulted upon two people instead of two aggravated assaults on two separate people. So I take it that you would likewise apply to amend 69 and delete 70?

MR BUGG QC: That's correct, yes, your Honour.

HIS HONOUR: Now the consequence so far as all the other counts are concerned of the fragmentation, and they would be 11, 12, 13, 16, 17 and 18, 19, 63 and 67, if the view I've initially expressed is the correct view it would seem to me the proper consequence of that would be that they should be quashed?

MR BUGG QC: Yes.

HIS HONOUR: Because they're incapable of amendment as I understand the situation.

MR BUGG QC: Yes, that's correct, your Honour.

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HIS HONOUR: All right, well Mr Bugg I will certainly consider the submissions that you made.

MR BUGG QC: I'm sorry – if I may withdraw from that concession your Honour. I still – if your Honour reaches that position, you were talking about quashing a conviction –

HIS HONOUR: Quashing the count. I am still seized of the indictment. It would be – I would quash the count it would seem to me there would be no conviction therefore.

MR BUGG QC: Yes. Yes, I accept that, your Honour.

HIS HONOUR: Yes, thank you.

The prisoner is remanded for sentence until 10.a.m. on Friday. Let him stand down.

THE COURT ADJOURNED.